

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO. 1102.3 OF 2014.

DISTRICT : AHMEDNAGAR

The Association of the Management of
Polytechnic (Mah.) & others.

...**PETITIONERS.**

VERSUS

The State of Maharashtra
Others.

...**RESPONDENTS.**

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Date : 02/12/2014.
Place : Aurangabad.

(N.B. KHANDARE)
Advocate for the petitioners.

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SYNOPSIS

The petitioner is aggrieved by clause 14 of impugned Government Resolution dated 25-7-2014 & 07-8-2014 issued for the approval of setting up new diploma and post diploma level institutions and change of site/ location ,closer of institution, extension of approval, increase/ reduction in intake, adding courses in existing program etc. for the academic year 2014-2015. The clause contemplates that, the fee reimbursement facility will not be applicable to the reserved category students admitted in the newly established institutions or newly started courses in the existing institutions in the academic year 2014-15. The consequence of insertion of this clause is that the students from reserved category would not be in a position to exercise option in respect of College who have not been assigned general admission code and would not be entitled for benefit of reimbursement of fees.

1. Dates and events.

Sr. No.	Dates	Events
1	1/1/2014	The AICTE by its advertisement invited applications for grant of approval for new institutions, additional courses, increase in intake and variation in intake etc.
2		Members of first petitioner submitted applications to AICTE online within stipulated time.

3	24/2/2014	DTE published a notification and informed to the applicant institutions/ colleges to submit complete information online on the official website of DTE as submitted to AICTE. The dates of hearing were also mentioned in the notification and Principal of the concerned college was asked to remain present with records.
4.		The AICTE has considered the applications submitted by the respective institutions/ colleges and granted approvals for the academic year 2014-15 for opening of new college, increase in intake in existing college, opening of new courses in existing colleges etc. as per exh.-C.
5.		The government had published rules for admission to diploma courses in engineering for the academic year 2014-15 namely rules for admissions to post SSC diploma course in Engineering/ Technology in government, government aided and unaided institutes in Maharashtra State.
6.		The rules inter-alia provides reservation for backward class category candidates and the percentage to each category is also mentioned therein.
7		The institutions/ colleges are compulsorily require to follow the reservation percentage while granting admissions to students. Almost 65%

		students are required to be admitted from various reserved categories including economical backward classes.
8		The admissions are granted to the students through Centralized Admission Process (CAP) and the list of students, who were qualified in CET were forwarded to the colleges for granting admissions and admissions are granted only to the students, who come from CAP.
9	2006-07	The fee reimbursement policy is applied to the private unaided engineering colleges thereby the government reimburse fee to the college against students of reserved category admitted in the college. The college is not entitled to charge fees to the students.
10	25/7/2014 7/8/2014	The government issued G.R.s granting approvals to the colleges approved by the AICTE. Clause 14 of G.R. contemplates that, fee reimbursement facility will not be applicable to the reserved category students admitted in the newly established institutions or newly started courses in the existing institutions to whom approval is granted by the said government resolutions for the academic year 2014-15. Clause 14 further stipulates that, the colleges to which government has send negative recommendations and whose applications are not forwarded through

		government are not entitled for application of the same.
11.		By insertion of Clause 14 in Government resolutions the members of first petitioner association are directly affected because they have admitted students belonging to various reserved categories and EBC from the list forwarded by DTE, who were selected through CAP.
12		First petitioner association thereafter made detail representation to the respondents thereby requested withdraw Clause no.14 in the impugned government resolutions. Petitioners brought to the notice of respondents that, as per fees reimbursement scheme only qualification is that, students admitted from CAP are eligible to avail fee reimbursement facility. It was categorically pointed that, the member colleges have granted admissions to the students of reserved category and EBC only through CAP. However, no action is taken on the representation.
		Hence this Writ petition.

POINTS TO BE CONSIDERED:

1. Whether impugned Clause 14 is arbitrary, unreasonable and violates provisions of Article 14 & 19 (1)(g) of Constitution of India.

2. Whether sudden insertion of Clause 14 of G.R. the intention of state is clear to go away from social responsibility of reimbursement of fee.
3. Scope and extent of powers of State government in grant of approval.

BOOKS TO BE REFERRED:

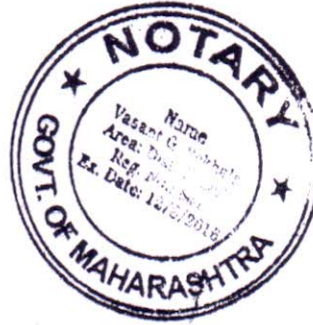
1. Constitution of India.
2. A.I.C.T.E. Act, 1987 and Regulations.

AUTHORITIES WILL BE CITED: Nil at present.

Date : /12/2014.
Place : Aurangabad.

(N. B. KHANDARE)
Advocate for the petitioners

6235



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 11023 OF 2014

DISTRICT : AHMEDNAGAR

In the matter of Articles 226, 14 &
19(1)(G) of the Constitution of India.

AND

In the matter of Article 300 of the
Constitution of India

AND

In the matter of All India Council for
Technical Education Act, 1987

AND

In the matter of Clause 14 of
Government Resolutions dated
25.7.2014 and 7.8.2014 issued for the

approval of new Diploma in
 engineering/Pharmacy courses, Variation
 In intake and for starting institutions for
 the academic year 2014-2015



1. **The Association of the Management of Polytechnics (Mah.)**
 A Society registered under the Act having its registered office at ;
 C/o K.K. Wagh Education Society,
 Hirabal Haridas Vidya Nagar,
 Amrut Dham, Panchavati,
 Nasik - 422 003, Maharashtra,
 Through its President :
 Shri Balasaheb Wagh.
2. **Gramin Shikshan Prasarak Mandal,**
 Gramin Polytenic, Vishnupuri,
 Nanded-431606. through Principal
 Shri V.S.Pawar.
3. **S.G.R. Education Foundation,**
College of Engineering and Management,
 G.N.No.1030,At/post-Chas,Nagar-Pune Road,
 Ahemadnagar,PIN-414008, through
 Chairman,Shri Sunil Raisoni.
4. **Sanjivani Rural Education Society's**
 K.B.P.Polytechnic, at Sahajanad Nagar,
 post-Shinganapur,Tal:Kopargaon,
 Dist Ahemadnagar-423603 through,
 Principal, Prof. R.A.Kapgate.
5. **Rajiv Gandhi College of Engineering,**
 Vitthal Nagar,Kokate Vasti,At Post-Karjule Harya
 Talparner,Dist- Ahemadnagar, through,
 Secretary, Shri Kiran Laxman Aher.
6. **Vardhaman Education & Welfare Society,**
 Ahinsa Polytechnic ,srv.No.190/1a/1,190/1a/2,
 Dhule Road, Post. Dondaicha,Dist.Dhule,
 through,President Shri Rajesh R.Munot.
7. **G.H.Raisoni Institute of Engineering**
and ManagementGat No.57/1,Shirsoli
 Road, At Post.Mohadi Tal.&Dist
 Jalgaon-425002, through Principal,
 Dr.Prabhakar Bhat.





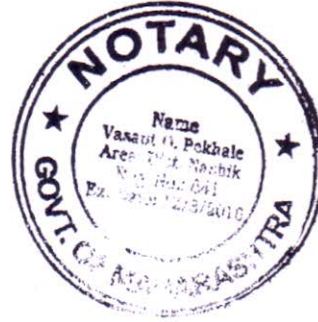
8. Gunal Shikshan Prasarak Mandal, Rajiv Gandhi Polytechnic, gat No. 84, Degloor road Kavalkhed Tal. Udgir Dist Latur Pin 413517.
through President,
shri Bapurao Shankar Rathod.
9. Radhey Charitable Trust's, D.B. Group of Institutions, School of Technology, opp. Latur- Nanded Highway, At Mahalangra, Tq. Chakur, Dist- Latur-412513, through Principal Dr. N. S. Dhage.
10. Hindustani Education Society, N.B.S. Institute of Polytechnic, Afsar Nagar, Ujni Road, Near M.S.E.B. Power House, Ausa Dist Latur 413520,
through Principal Shri. Karbhari I. H.

VERSUS

1. The State of Maharashtra
through Secretary,
Higher & Technical Education
Department, Mantralaya Annex Building,
Mumbai - 400 032
(Copy to be served on the
Government Pleader, High Court of
Judicature at Bombay,
Bench at Aurangabad.
 2. The Director,
Directorate of technical Education,
Maharashtra State,
3, Mahapallika Marg, Dhobi Talao,
Mumbai - 400 001
 3. The Secretary,
Social Welfare and Special Assistance
Department, Govt. of Maharashtra,
Mantralaya Annex Building,
Mumbai - 400 032
 4. The Secretary,
Tribal Development Department,
Government of Maharashtra,
Mantralaya Annex Building,
Mumbai - 400 032
- ... RESPONDENTS

TO,

THE HONOURABLE THE CHIEF JUSTICE AND
OTHER HONOURABLE PUISNE JUDGES OF THE
HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD



HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED.

MOST RESPECTFULLY SHEWETH :

1. The first petitioner is an Association of managements of unaided Polytechnics (Maharashtra). The first petitioner is a society registered under the Societies Registration Act and is granted registration certificate dated 24.2.2005. Simultaneously, petitioner is also registered as a public trust under the Bombay Public Trusts Act, 1950 and has been granted registration certificate dated 31.5.2005. The first petitioner is concerned for its members, unaided Polytechnic situated at different cities and towns of the State of Maharashtra. Petitioners 2 to 10 are the educational institutions and managements of Polytechnic Institutions, which are members of first petitioner. These Polytechnics and members of first petitioner are run on permanently no grant basis and they do not receive any financial assistance from the Government.

2. The first respondent is the State of Maharashtra,



represented through its Secretary in Higher Education Department, concerned Department, regulating to some extent the affairs of Polytechnics run by the petitioners. The respondent No.2 is the Directorate of technical Education, an admission authority, and controls admissions in private Polytechnics in the State of Maharashtra. Respondent nos.3 and 4 are the Social Welfare and Special Assistance Department and Tribal Development Department respectively, frame and implement scheme namely fees reimbursement scheme for the students belonging to Scheduled castes and Scheduled Tribes, admitted and taking education in private unaided Polytechnics. The respondents are the State authorities and is State within the meaning of Article 12 of the Constitution of India and, therefore, amenable to the writ jurisdiction of this Hon'ble High Court under Article 226 of the Constitution of India.

3. The members of first petitioner, petitioners No.2 to 10 are Polytechnic Institutes, duly approved by the All India Council for Technical Education (for short hereinafter referred to as "AICTE") to start Diploma courses in engineering (Polytechnic) additional intake, Variation in Intake, additional Courses, second shift; after following procedure prescribed under AICTE Act and Regulations framed thereunder.

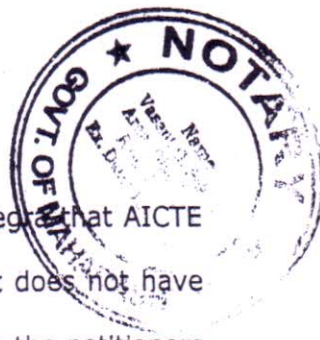
The petitioners are aggrieved by Clause No.14 of the Government Resolutions dated 25.7.2014 and 7.8.2014, where under the approval is granted to the petitioner



Polytechnics in conformity with the approval granted by the AICTE for the academic year 2014-15. Clause 14 thereof contemplates that the fee reimbursement scheme/ facility will not be applicable to the reserved category students admitted in the said newly established institutions or newly started courses in the existing institutions including the increase in intake for the academic year 2014-15. Consequently, the students belonging to reserved categories i.e. Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Backward Classes would not be entitled to the benefits of fee reimbursement scheme, which is in force till date. Such students are not in a position to exercise in respect of petitioner Polytechnics because of the restrictions put under clause 14 of the Government Resolutions.

4. Surprisingly, clause No.14 of the Government Resolutions is wholly contrary to the procedure, which was adopted by the Director during the admission process and also contrary to the provisions of AICTE Act, 1987 and regulations framed thereunder. No procedure or the provisions prescribed under AICTE Act and regulations provides for making an application through Government. The Government also did not at any point of time asked the petitioners and other member institutions desirous to make an application for opening of Polytechnic, increase in intake, opening of courses etc., shall submit applications through Government and falling which the scheme would not be made applicable. By now, it is settled





legal position and the point is no more res -Integrated that AICTE is the final authority and the State Government does not have any role to play in grant of approvals. Depriving the petitioners and member Polytechnics from the benefits of scheme which is in force, is illegal, not only from the point of view of the Polytechnic but from the point of view of students also. The students from the said categories to whom scheme is applicable, are also deprived from getting the benefit of fee reimbursement scheme. The petitioners, therefore, raised a challenge to the validity of the impugned clause 14 of the aforementioned Government Resolutions. The AICTE had issued public notice for approval process 2014-15 for grant of approvals for establishment of new institutions, additional courses in existing institutions, increase in intake capacity, and variation in intake including closure of courses. Hereto annexed and marked as **EXHIBIT 'A'** is the copy of public notice.

5. AICTE is an authority and a body established under the AICTE Act, 1987. The AICTE is empowered to frame rules and regulations under the Act. Accordingly, the AICTE has framed regulations providing procedure for grant of approvals and they are amended and modified time to time, presently the regulations 2010/2011 are holding the field. For ready reference, copy of regulations 2010-2011 are annexed hereto and marked as **EXHIBIT 'B'**.



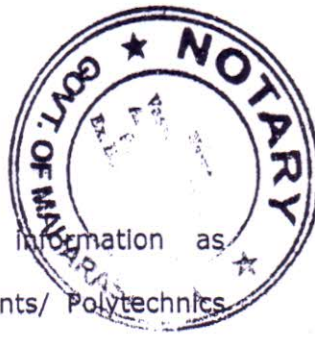
6. As per said regulations and procedure prescribed therein, the institutes seeking approval is required to make an application Online (AICTE Website) directly to the AICTE. The regulations nowhere prescribe a procedure to submit application through Government.

7. Members of petitioner No.1 applied to the AICTE according to the time table prescribed. Different members of the first petitioner had submitted applications seeking approvals for different subjects, Increase in Intake establishing new Polytechnics etc. etc. as per respective applications submitted by them. A detailed chart indicating detailed information regarding the members/ Polytechnics who have submitted their applications for grant of approval for the academic year 2014-15 is annexed hereto and marked as **EXHIBIT 'C'**.

8. The petitioners state that, as per the norms, before the petitioners applied to AICTE, required applications/ proposals were submitted to the concerned affiliating bodies, in case of Engineering colleges seeking approval for graduate and postgraduate courses to the respective Universities and in respect of diploma courses to the MSBTE.

9. The Director - respondent No.2, In pursuance to the approval process started by the AICTE, published a notification dated **01.2.2014** and asked the concerned applicants/



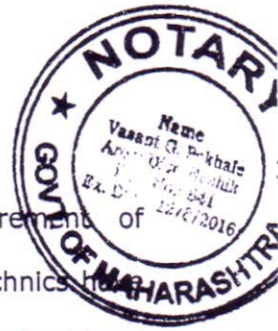


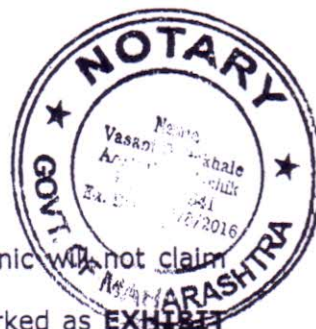
Polytechnics to submit complete Online information as submitted to AICTE. The concerned applicants/ Polytechnics were also informed to remain present for hearing as per the programme scheduled therein along with complete records. The personal presence of Principals was compulsory. The Polytechnics were also required to submit fees. Hereto annexed and marked as **EXHIBIT 'D'** is the copy of notification published by the Director (respondent No.2) dated **03.1.2014**. It is pertinent to note at this stage that, even this notification does not make any mention or contain any information regarding submission of application through Government and also regarding non application of fees reimbursement scheme.

10. Accordingly, the member Polytechnics / applicants submitted required information to the Director/ Respondent No.2 and also attended hearing on scheduled dates. During the verification of documents and the hearing, which was in fact a formality, the applicants were not informed about the said requirement of submission of application through Government and non application of fee reimbursement scheme. As a matter of fact, the applicant Polytechnics, while submitting the applications for approval Online to the AICTE, also submitted complete applications to the respective Regional Joint Directors and the Director.

11. The AICTE, on considering applications and the recommendations of Government, if any, satisfied that the

applications are in conformity with the requirements of the procedure and also found that the applicant Polytechnics have made compliance of all necessary infrastructural, educational facilities therefore, granted approval to the respective Polytechnics for the academic year 2014-15. The detailed information is contained in Chart placed at Exhibit C. The copy of approval letters were directly endorsed to the Secretary, Higher and technical Education Department, Government of Maharashtra. The Government, thereupon, was under statutory obligation to grant further approval or recognition as the case may be in consonance with the approval granted by the AICTE for the academic year 2014-15. The Government, therefore, issued the impugned Government Resolutions dated 25.7.2014 and 7.8.2014, thereby granted approval/ recognition for running courses for the academic year 2014-15 as approved by the AICTE. However, surprising, the approval is made conditional which is contained in clause No.14 of the Government Resolutions, which contemplates that even reimbursement facility will not be applicable to the reserved category students admitted in the Polytechnic for the academic year 2014-15, to whom the Government has given a negative recommendation and whose applications were not routed through Government. A further condition is placed that such institutions or the Polytechnic are required to file a notarized affidavit. Though the form and contents of affidavit are not enumerated in clause No.14 of Government Resolutions, it is informed that, the concerned Polytechnic should file affidavit





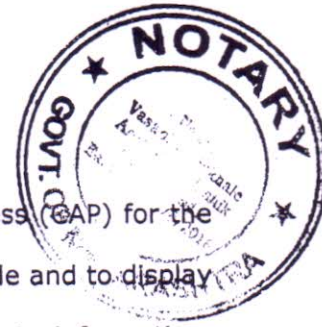
and furnish an undertaking that the Polytechnic will not claim fee reimbursement. Hereto annexed and marked as ~~EXHIBIT~~

'E' Colly. are the copies of DTE's Letter dated 25.7.2014 and 11.8.2014.

12. As stated hereinabove, neither the petitioner No.1 being Association nor the member Polytechnics, who applied for grant of approval were informed at any point of time that the applicant would require submitting application to AICTE through the Government nor the application of fee reimbursement scheme.

13. Some of the member Polytechnics of petitioner No.1 are required to file Writ Petition before the Hon'ble High Court as the newly approved Polytechnics were not included in admission process though it was obligatory on the Government. The Hon'ble High Court found that, non inclusion in admission process is wrong and illegal, therefore, issued directions to the Director to include the respective Polytechnics in the admission process. The petitions were filed before the Bench at Aurangabad and also Principal Seat at Mumbai. Ultimately, one of the Writ Petitions namely Writ Petition No.5816/2014 was heard elaborately at Mumbai. Considering the law as it stands today, as declared by the Hon'ble Supreme Court and in various judgments of the Hon'ble High Court, the petition is allowed and directions are issued to the Government particularly the Director (respondent No.2) to include the petitioner





Polytechnics in the Centralized Admission Process (CAP) for the academic year 2014-15 and issued Institute Code and to display the names on the Web Portal along with Institute information, Course wise sanction intake and choice code. The Polytechnics were thereafter included in the admission process and admissions are complete. For ready reference, various interim orders passed by the Hon'ble High Court and judgment in Writ Petition No.5816/2014 is annexed hereto and marked as **EXHIBIT 'F'**.

14. The petitioners state that, rules for admission to First Year of Post SSC Diploma Courses In Engineering/ Technology in Government, Government Aided and unaided Polytechnics in Maharashtra State for the year 2014-15 were published by the Director – respondent No.2. Clause 6.6 of the said rules make provisions for reservation for Backward Class category candidates and it enumerate details of category wise percentage of reservations. Reliance is placed on the Maharashtra Ordinance No.5 of 2016 under which reservation for backward classes is made compulsory and accordingly, the same is also made compulsory in the rules of admission framed for the academic year to the concerned Polytechnics, Government or non Government including non-aided private Polytechnics are under compulsion to grant admission percentagewise to the various reserved category candidates mentioned enumerated in the admission rules. Hereto annexed and marked as **EXHIBIT 'G'** is the copy of rules for admission



for Post SSC Diploma courses in Engineering /Technology for the academic Year2014-15.

15. During admission process, the list of students was forwarded to the respective member Polytechnic by the Director or the Joint Director, as the case may be, allotting students to the respective Polytechnics for grant of admissions including the students belonging to various reserved categories and also Economically Backward Classes. Under the directions and as per admission process, students allotted by the Director or the Joint Director as the case may be, have been granted admission in the respective Polytechnics including students belonging to various reserved categories. Out of the admitted students, almost 65% students are belonging to various reserved categories i.e. at least 50% from reserved categories of Scheduled Castes/ Scheduled Tribes/ Other Backward Class etc. and almost not less than 15% from Economically Backward Classes. The Polytechnic, under the scheme framed by the Government which is in force, and under rules for admission is not entitled to receive fees from such students and fees would be borne by the Government under its free reimbursement scheme. However, by virtue of clause 14 of the Impugned Government Resolutions, the Polytechnic is not entitled to reimburse fees from the Government. As of today, such admissions to the said category of students are without fees.

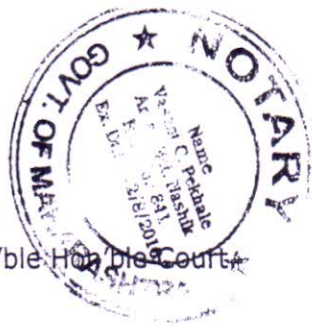
16. The petitioners state that, an identical Government



Resolution was issued while granting approval/ recognition of the Polytechnic for the last academic year 2013-2014 and the first petitioner association had filed a Writ Petition before the Hon'ble High Court and the individual member Polytechnics also filed similar petitions challenging the said Government Resolutions and clause No.14 thereof. After hearing the Government and the petitioners, the Hon'ble High Court, in a batch of petitions, rendered a judgment on 9.9.2014 and 15/9/2014, thereby held that, clause 14 of the said Government Resolutions are not applicable to the petitioners therein which were approved by AICTE for the academic year 2013-2014. It is further held that, the petitioners/ institutions/ Polytechnics are entitled for fee reimbursement and all other related benefits continuously based upon the earlier Government Resolutions / policies. The copy of the judgment and order dated 9.9.2014 and 15/9/2014, passed by this Hon'ble Court in Writ Petition No.5190/2013 is annexed hereto and marked as **EXHIBIT 'H'**.

17. The petitioners state that, the Government - respondent No.1 and particularly the respondent No.2 was aware that such Writ Petition challenging the identical clause 14 of the Government Resolutions issued for the last academic year was under challenge before the Hon'ble High Court and was actively under consideration and hearing was in progress; still, ignoring the said fact, the present Government Resolutions are issued. It was appropriate for the Government to stay their

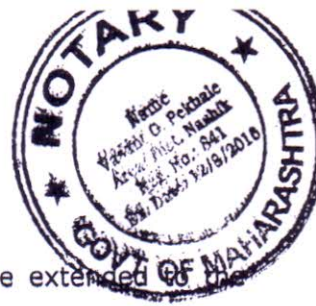




hands till the decision is rendered by the Hon'ble Hon'ble Court.

18. After the judgment rendered by the Hon'ble High Court in Writ Petition No.5190/2013, directly bearing on the issue involved in the present Writ Petition, holding that the said clause 14 is not applicable and Polytechnics are entitled for fee reimbursement, the first petitioner being association, made a detailed representation to the concerned Secretaries of Social Welfare, Tribal Development and the Higher and Technical Education Department of Government of Maharashtra. The representation interalia mentions the judgment and order dated 9.9.2014 and 15/9/2014 passed by the Hon'ble High Court. The Government was requested, considering the scheme in its totality and underline circumstances and the judgment of the Hon'ble High Court, to withdraw clause 14 contained in impugned Government Resolutions and allow the students (reserved category) to avail fee reimbursement facility. Annexed hereto and marked as **EXHIBIT 'I'** is the copy of representation dated 29.10.2014.

19. The petitioners state that, the fee reimbursement scheme made applicable to the private unaided Polytechnics from the academic year 2006-2007 and same is continued till the date by issuing fresh Government Resolutions time to time. The scheme contained in these Government Resolutions stipulates that 100% and 50% fee reimbursement is applicable to SC/ ST/ SBC and to OBC categories respectively. It further

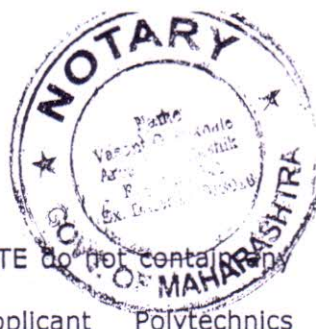


stipulates that benefit of the scheme will be extended to the students who have taken admission through Centralised Admission Process (CAP). Thus, it is clear that, only condition for application of the fee reimbursement scheme is admission through CAP. The admissions for this academic year in all the member Polytechnics of petitioner No.1 are through CAP and thus, they are extended for free reimbursement scheme. Various Government Resolutions issued from time to time regarding application for free reimbursement are annexed hereto and marked as **EXHIBIT 'J' Colly**. The representation submitted by the first petitioner is totally ignored and no steps are taken by the respondents to withdraw clause 14 of the impugned Government Resolutions and to extend the benefit of fee reimbursement scheme. The petitioners, therefore, approach this Hon'ble Court by way of present Writ Petition on following amongst other grounds which are without prejudice to each other:

G R O U N D S

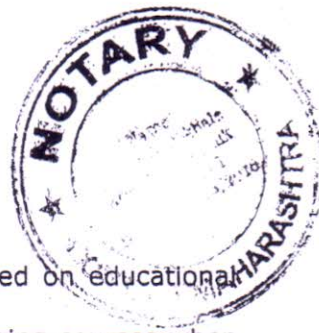
- I) the impugned clause 14 is arbitrary, unreasonable and unwarranted as it does not stand to the reasons and is not rational.
- II) The respondents did not inform at any point of time earlier that the applications are required to be routed through Government falling which benefit of fee reimbursement would not be available.
- III) The AICTE Act, 1987 and rules and regulations





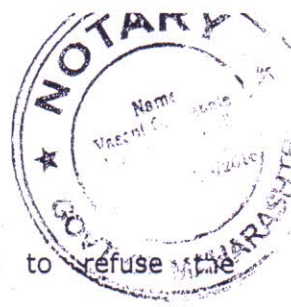
framed thereunder by the AICTE do not contain any provision making the applicant Polytechnics compulsory to submit application through Government. The rules also do not make any provision that view and recommendations of the Government are binding on AICTE.

- IV) The first respondent does not have the authority, jurisdiction and power either to negatively recommend application for establishment of Polytechnics or there is no requirement of processing application for establishment of Polytechnics through State Government.
- V) That, the sudden insertion of clause 14, the intention of state is clear to go away from social responsibility of reimbursement of fees. However, reason given or as posed by the respondents that the applications are not processed through State is not tenable in the eyes of law.
- VI) That, there are as many as 33 Institutes which are likely to affect by the insertion of the said impugned clause 14, if these institutes admit students from reserved category, such students will not be entitled for fee reimbursement facility. Therefore, there is likelihood of many students may not give preference in CAP to the institutes who are shown in 'no fee reimbursement facility'.
- VII) The first respondent by inserting clause 14 cannot



take away the legal rights conferred on educational institutions to conduct the engineering courses when all the other parameters are complied with and met by incurring substantial expenditure.

- VIII) That, in respect of grant of approval for establishment of technical Education Institutions the AICTE is sole authority. In view of settled principles of law by no stretch of imagination **State Government** can state that the application for establishment of polytechnics was required to process through **State Government**.
- IX) That, it is obligatory on the respondent to follow process followed for earlier academic years. The petitioners submit that, **AICTE** rules requires consultation with State Government, however, the said consultation would be at the AICTE and State Government level only.
- X) That, the State cannot have policy contrary to the Central Act. In the matter of granting approval to new technical institutions and introduction of new courses or programs, no State Government can have a policy outside the AICTE Act. Therefore, contention of State Government that the application for establishment of technical institutions was required to process through State is not tenable in the eyes of law.
- XI) That, such policy of State Government imposing illegal sudden requirement of processing application

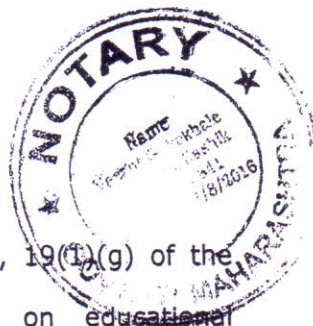


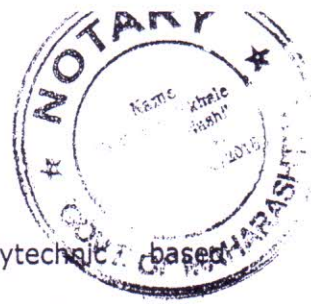
through State cannot be used to refuse the reimbursement to reserve category students.

- XII) That, the State cannot take away fundamental right of free education from reserved category students by imposing such condition as contained in clause 14 of impugned Government Resolutions.
- XIII) That, the impugned action is wholly arbitrary, excessive and violates rights of the institutions as guaranteed under Article 19(1)(g) read with Article 14 of the constitution of India.
- XIV) The petitioners respectfully submit that, for the last academic years such stipulation never existed. Further, This shows that, what is being imposed is a non essential requirement and by no stretch of imagination, can be part of the mandatory requirement for the purpose of submitting an application to seek approval from the first respondent. Such sudden imposing of clause 14 smacks of arbitrariness and abuse of the powers by the first respondent for extraneous reasons.
- XV) The petitioners respectfully submit that, the first respondent has acted completely beyond its authority and has also encroached upon the provisions of the AICTE Act to impose and foist such a condition as also interfere in the educational rights of reserved category students. The effect of the impugned action on the part of the respondent is to take away the

fundamental right under Article 14, 19(1)(g) of the Constitution of India, conferred on educational institutions.

- XVI) The petitioners further submit that, it is a settled principle of law as laid down in catena of judgments of the Hon'ble Supreme Court namely in the case of **Jaya Gokul Educational Trust Vs. Commissioner and Secretary to Govt. Higher education Department, reported in (2000) 5 SCC 231.**
- XVII) That the first respondent has completely overstepped its jurisdiction. The impugned stipulation, therefore, deserves to be quashed and set aside on this count alone.
- XVIII) The fee reimbursement scheme, is implemented by the Government for the benefit of the students of reserved categories in order to facilitate to take higher education and the benefit of said scheme are being withdrawn by such unreasoned and unconstitutional order. Basically, the students are the sufferers of the said clause.
- XIX) As per policy and scheme, Polytechnics are under obligation to grant admissions to reserved category students and maintain 50% quota of constitutional reservations.
- XX) Impugned clause 14 of G.R. is discriminatory, as it creates discrimination among the reserved category students taking education in same Polytechnic for





same course and class. Polytechnic based classification is made by virtue of clause 14; therefore violates article 14 of the constitution.

XXI) As per scheme only qualification is student must have admission from CAP, which is fulfilled in present case; as the lists of students selected from CAP are provided by the Director.

XXII) Central Govt. provides fund towards scholarships through State Govt. and state Govt. is only disbursing authority. Without consent and authority of Central Govt. benefits of welfare scheme are withheld.

20. The petitioners have not filed any other petition, appeal or revision in the subject matter of this Writ Petition either before this Hon'ble High Court or the Supreme Court of India.

21. The petitioners have no other speedy and efficacious remedy than to file the present Writ Petition before this Hon'ble High Court.

22. The petitioners crave leave of this Hon'ble Court to add, amend, alter, delete or modify any of the paragraphs/submissions/ grounds as and when necessary with the prior permission of this Hon'ble Court.

23. The petitioners undertake to supply translation of



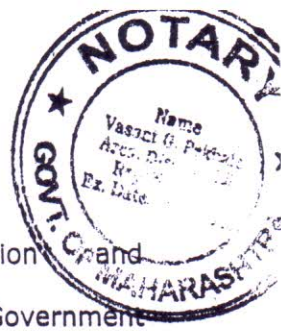
Marathi documents into English as and when directed by this Hon'ble Court.

24. The petitioners are approaching this Hon'ble High Court within the period of limitation and there is no delay.

25. The petitioners have not received any notice of caveat from the respondent/s till the date of filing this Writ Petition.

26. **The petitioner, therefore, humbly prays that:**

- A) This Hon'ble Court may be please dot issue a writ of certiorari or any other writ, order or direction in the nature of certiorari calling for the records, papers and proceedings pertaining the Impugned clause as contained in Government Resolutions dated 25.7.2014 and 7.8.2014 stating 'fee reimbursement facility will not be applicable to the reserved category students admitted in the newly established institutions or newly started courses in the existing institutions in the academic year 2014-2015 and after examining its legality, validity and propriety, be pleased to quash and set aside the same.
- B) Hold and declare that, the Government Resolutions dated 25.7.2014 and 7.8.2014 and clause No.14 thereof is unconstitutional as it violates the provisions of Article 14 and 19(1)(g) of the constitution of India.
- C) Pending hearing and final disposal of this, Writ



Petition, the execution, operation and implementation of clause No.14 of the Government Resolutions dated 25.7.2014 and 7.8.2014 may kindly be stayed.

- D) Pending hearing and final disposal of this Writ Petition, the respondents may kindly be directed to apply reimbursement of fees scheme to the students of members of petitioner belonging to reserved category.
- E) Ad-interim relief in terms of prayer clause (C) and (D) above may kindly be granted.
- F) Any other just and equitable order which this Hon'ble Court may deem fit and proper, may kindly be passed.

And for which act of kindness and justice, the petitioner shall, as in duty bound, ever pray.

AURANGABAD

DATED : /11/2014

(N.B. Khandare)

Advocate for the Petitioner



VERIFICATION

I, Mr. Balasaheb Deoram Wagh, Age 83 years, Occupation Service, as President of Association of the Managements of Polytechnics, C/o K.K.Wagh Education Society, Amrutdham, Panchavati, Nashik, do hereby state on solemn affirmation for myself as well as petitioners 2 to 10 that the contents of this Writ Petition from para Nos.1 to 26 are true and correct to the best of my knowledge and belief. The legal submissions made therein are based on advice of my Advocate Shri S.S. Thorat whom I believe to be true.

Hence, verified and signed at Nashik on this _____ day of November, 2014.

Deponent

Balasaheb D. Wagh
(Balasaheb D. Wagh)

Identified & explained by :

S.S. Thorat
S.S. Thorat
Advocate

NOTED & REGISTERED
AT SR. NO. 6233 / 2811 / 14
CONTAINS 29 PAGES

SIGN. BEFORE ME

Solemnly affirmed before me,
by Balasaheb D. Wagh
Identified before me by Adv. S.S. Thorat
or whom I personally know

Vasant G. Pekhale

VASANT G. PEKHALE
NOTARY, GOVT. OF MAHARASHTRA
Off. Che. No. 119/2, Dist Court, Nashik-2

