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WP 358 OF 2021.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

District : Aurangabad

WRIT PETITION NO. 358 OF 2021

Prajwal Tukaram Kasbekar
Age – 21 years, Occu- Education
R/o Quarter No. 8, Bldg. No. 7
GST Quarters, Town Centre,
N-1 CIDCO, Aurangabad

.....PETITIONER

VERSUS

1. The State Of Maharashtra
Through Secretary
Dept. of Medical Education
9th Floor, G. T. Hospital Campus
New Mantralaya, Mumbai
2. Director of Medical Education and Research
4th floor, St. Georges Hospital Compound
Fort, Mumbai
3. The Commissioner and Competent Authority
State Common Entrance Test Cell, Maharashtra
8th Floor, Exceslior Building, A.K. Naik Marg,
Fort, Mumbai
4. Dr. Vasantao Pawar Medical College
Aadgaon, Vasantdada Nagar,
Nasik – 3
Through Its Dean

.....RESPONDENTS

Mr. Akshay D. Kulkarni, Advocate for the Petitioner
Mr. A. R. Kale, Addl. GP for Respondent Nos.1 and 2 – State
Mr. M. D. Narwadkar, Advocate for Respondent No.3

WITH
WRIT PETITION NO. 6715 OF 2020

1. Sejal d/o Sandip Bhale,
Age: 20 years,
Occupation - Dependent being student,
R/o Plot No. 21, Niranjana Housing Society,
Tilaknagar, Behind Roplekar Hospital,
Aurangabad.
2. Aishwarya d/o Umesh Dhadwal,
Age: 19 years,
Occupation - Dependent being student,
R/o Plot No. 34, Jalan Nagar,
Paithan Road, Aurangabad.
3. Sharvari d/o Santosh Deshmukh
Age: 19 years,
Occupation - Dependent being student,
R/o Plot No. 18, Gut No. 140,
Opp. Hotel Sidori, Beed Bypass Road,
Aurangabad, Tq. & Dist. Aurangabad.

.....PETITIONERS

VERSUS

1. State of Maharashtra
Through
The Secretary,
Department of Medical Education,
9th Floor, G. T. Hospital Campus,
New Mantralaya, Lokmanya Tilak Road,
MUMBAI-I
Fax No.022/22626420/22627372
2. The Director of Medical Education & Research
4th Floor, St. Georges Hospital Campus,
Near Mumbai CSMT Station, Fort,
Mumbai-400 001.
Phone: 022-22652251/57/59
E-Mail: dmercetcell@gmail.com
3. The Commissioner & Competent Authority
State Common Entrance Test Cell Maharashtra,
8th Floor, Excelsior Building, A.K. Nayak Marg.
Fort, Mumbai, 400001.

Phone - (Boardline) – 022-22016153-57-59

E-Mail: maharashtra.cetcell@gmail.com

4. Dr. Vitthalrao Vikhe Patil Foundation's Medical College and Hospital, Ahmednagar.
Through Its Dean
Opposite to Government Milk Diary,
Vadgaon Gupta, MIDC,
Ahmednagar, 414111
E-Mail-vims.anr@gmail.com
Phone (0241) 2778042, 2777059, 2779757,
Fax – 2779782

.....RESPONDENTS

Mr. Milind Madhukar Patil, Advocate for the Petitioners
Mr. A. R. Kale, Addl. GP for Respondent Nos.1 and 2 – State
Mr. M. D. Narwadkar, Advocate for Respondent No.3
Mr. A. V. Hon, Advocate for Respondent No.4

CORAM : KISHORE C.SANT AND
AJIT B. KADETHANKAR, JJ.
RESERVED DATE : 28.07.2026
PRONOUNCED DATE : 03.08.2026

JUDGMENT (*Per Ajit B. Kadethankar, J.*):-

1. **Subject-matter** : We are constrained to mark our serious displeasure against respondent State Authorities' 'pick and choose' method while implementing a beneficial 'one time scheme'. In fact while examining the matters in hand, we are shocked to see serious incongruity in admitting students in Government and Aided medical colleges.

The Petitioners are deprived of reimbursement of fees under the Government Resolution dated 20-09-2019. They are such students who had to miss admission in government or aided medical college in 2019-2020 due to application of reservation for Economically Weaker Section [“EWS” for brevity] and Socially and Economically Backward Class [“SEBC” for brevity] students under the Maharashtra State Reservation (of Seats for Admission in Educational Institutions in the State and for Appointments in the Public Services and Posts under the State) for Socially and Educationally Backward Classes Act 2018.

Although Government Resolution dated 20-09-2019 issued by the Government of Maharashtra offers benefit of reimbursement of fees to the students like the petitioners, yet their names stood excluded from the list of beneficiaries. They are excluded from the beneficiary list on the count that they could not have got admission in Government or aided medical college even if reservation to EWS or SEBC was not applied.

Demonstrating that 25 students out of 106 granted benefit of reimbursement stand lower than Petitioners’ merit, the petitioners have approached this court.

2. Moot question :

(I) Whether if the respondent authorities are justified in holding that the Petitioners even otherwise could not have secured admission to any Government or Aided medical college in the State even if EWS or SEBC reservation was not applied.

(II) Whether if the Petitioners are entitled for benefit of Government Resolution dated 20-09-2019.

3. Brief facts:

a) It is of common knowledge that out of total seats available in Maharashtra for Medical admissions, 85% seats in the State are reserved as State quota while 15% seats are to be filled in through All India Quota (“AIQ” for brevity).

b) The Government of Maharashtra enacted the Maharashtra State Reservation (of Seats for Admission in Educational Institutions in the State and for Appointments in the Public Services and Posts under the State) for Socially and Educationally Backward Classes Act 2018 [“SEBC Act” for brevity] w.e.f. 29-11-2018.

c) The Constitution Amendment Act 2019 and SEBC Act provided for quota of reservation in the State for the students falling under the EWS and SEBC category. Needless to mention,

this reservation is applicable within the 85% seats falling under the State quota.

d) Consequent to application of the reservation under SEBC Act, saturation of admissions in Government and Aided Medical Colleges was consequential. Obviously, if the students falling under EWS or SEBC category choose for seats in Government Medical College or any Government Aided institution, such number of 'General category' students from Non-EWS and Non-SEBC, (i) who could have got admission in the said institution and (ii) who were at the bottom in the merit list, were bound to miss admission in such institution.

e) To balance the things, the Government of Maharashtra passed a Government Resolution dated 20-09-2019. It was resolved that those students who lost opportunity of admission in any Government or Aided medical college due to accommodation of EWS and SEBC students, would be entitled for reimbursement of the fee they paid in private medical college over & above the fee payable in government medical college.

f) For convenience, the Government Resolution is reproduced as below :

शासननिर्णयः

एसईबीसी आणि ईडब्ल्यूएस आरक्षण लागू झाल्यामुळे सन २०१९-२० या शैक्षणिक वर्षी खुल्या प्रवर्गातील काही विद्यार्थ्यांचे प्रवेश बाधित होऊन त्यांना शासकीय महाविद्यालयाऐवजी खाजगी विनाअनुदानित महाविद्यालयात प्रवेश घ्यावा लागला आहे. अशा बाधित झालेल्या व सन २०१९-२० या शैक्षणिक वर्षी खासगी विनाअनुदानित महाविद्यालयात वैद्यकीय व दंत पदवी/ पदव्युत्तर अभ्यासक्रमांस प्रवेश प्राप्त झालेल्या खुल्या प्रवर्गातील विद्यार्थ्यांना त्यांच्या संबंधित अभ्यासक्रमाकरीता सक्षम प्राधिकरणाने विहीत केलेल्या शिक्षण शुल्काची प्रतिपूर्ती शासनामार्फत करण्यास याद्वारे तत्त्वतः मान्यता देण्यात येत आहे.

२. बाधित विद्यार्थ्यांच्या शिक्षण शुल्काची प्रतिपूर्ती करताना, सदर विद्यार्थी शासकीय वैद्यकीय/ दंत महाविद्यालयात प्रवेशित झाले असते तर त्यांना जे शुल्क भरावे लागले असते त्या शुल्काची रक्कम वजा करुन उर्वरित भरणा केलेल्या शुल्काची प्रतिपूर्ती करण्यात येईल.

३. सदर योजनेच्या पात्रतेसाठीचे निकष व शुल्क प्रतिपूर्तीबाबतची सविस्तर कार्यपद्धती याबाबत स्वतंत्रपणे सूचना निर्गमित करण्यात येतील.

४. सदर शुल्काची प्रतिपूर्ती योजना ही सन २०१९-२० या शैक्षणिक वर्षाच्या प्रवेशप्रक्रियेदरम्यान एस.ई.बी.सी. आणि ई.डब्ल्यू.एस. या प्रवर्गांच्या आरक्षणांमुळे बाधित झालेल्या व राज्यातील खाजगी विनाअनुदानित वैद्यकीय/ दंत (पदवी व पदव्युत्तर) महाविद्यालयात प्रवेशित झालेल्या खुल्या प्रवर्गातील विद्यार्थ्यांसाठीच लागू राहील. तसेच या विद्यार्थ्यांच्या शैक्षणिक शुल्काची प्रतिपूर्तीही संबंधित अभ्यासक्रमाच्या किमान विहीत कालावधीकरिता (जसे की, एम.बी.बी.एस. - साडेचार वर्षे, बी.डी.एस.-चार वर्षे, पदव्युत्तर-तीन

शासन निर्णय क्रमांक:एमईडी १०१९/प्र.क्र.२९१/१९/शिक्षण-२

वर्षे) देय राहील. त्याप्रमाणेच अभ्यासक्रमाच्या परीक्षेत अनुत्तीर्ण झालेल्या विद्यार्थ्यांना प्रतिपूर्तीची रक्कम तो ज्या वर्षात अनुत्तीर्ण झाला आहे त्या वर्षाकरिता अनुज्ञेय राहणार नाही.

५. अनिवासी भारतीय कोटा तसेच व्यवस्थापन कोटा/ संस्थात्मक कोटा यामध्ये प्रवेशित झालेल्या विद्यार्थ्यांना सदर प्रतिपूर्ती अनुज्ञेय असणार नाही.

६. एस.ई.बी.सी. आणि ई.डब्ल्यू.एस. आरक्षण अल्पकालावधीत लागू झाल्याने बाधित झालेल्या खुल्या प्रवर्गातील विद्यार्थ्यांकरिता शुल्काची प्रतिपूर्ती करणे ही "एक विशेष बाब" व "फक्त एकवेळेचीच बाब" म्हणून सदर निर्णय घेण्यात येत आहे.

७. शिक्षण शुल्काच्या सदर प्रतिपूर्तीकरीता पात्र विद्यार्थ्यांची यादी संचालक, वैद्यकीय शिक्षण व संशोधन संचालनालय, मुंबई यांच्यामार्फत तयार करण्यात येतील. याकरीता आयुक्त, राज्य सामाईक प्रवेशपरिक्षा कक्ष, मुंबई यांच्याकडे उपलब्ध वैद्यकीय व दंत पदवी/पदव्युत्तर अभ्यासक्रमांच्या प्रवेशप्रक्रियेचे अभिलेख विचारात घेण्यात येईल.

८. सदर शासन निर्णय वित्त विभागाच्या दिनांक १६ सप्टेंबर, २०१९ रोजीच्या अनौपचारिक संदर्भ क्रमांक २८८/२०१९/व्यय-१३ अनुसार व सहमतीने आणि नियोजन विभागाच्या दिनांक २० सप्टेंबर, २०१९ रोजीच्या अनौपचारिक संदर्भ क्रमांक १७६/१४७५ अनुसार व सहमतीने निर्गमित करण्यात येत आहे.

९. सदर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०१९०९२०१५०९००२६१३ असा आहे. हा आदेश डिजिटल स्वाक्षरीने साक्षात्कृत करुन काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

g) This was a one-time provision to remove the financial burden levied on the students who were in fact entitled for

admission at Government or Aided medical college. This was applicable for the students securing admission to medical education course commencing in 2019-2020.

h) Petitioners are the students who underwent entrance examination for admission to the medical course commencing from 2019-2020.

i) The details of the Petitioners could be seen as follows:

Writ Petition No.358 of 2021

No.	Name of Petitioner	NEET AIR	College allotted
1	Prajwal Kasbekar	34441	V. Pawar MC, Nashik

Writ Petition No.6715 of 2020

No.	Name of Petitioner	NEET AIR	Colleges allotted
1	Sejal Bhale	34789	VVPF'S MC A.Nagar
2	Aishwarya Dhadwal	35738	VVPF'S MC A.Nagar
3	Sharvari Deshmukh	36711	VVPF'S MC A.Nagar

j) Petitioners' contention is that they were in fact entitled and eligible to be admitted to Government medical colleges and Aided medical colleges from general category corresponding to their respective merit. However, due to admission to EWS and SEBC students, they had to opt for private medical colleges requiring to pay huge fees.

k) Believing themselves to be entitled for benefit under the Government Resolution dated 20-09-2019, they gathered information of the students upon whom the said benefit was conferred. They learnt that in all 106 students were held eligible for the benefit of reimbursement. Even it was found that students who were much below their rank were too given benefit of the reimbursement.

l) Being disappointed to learn that they were excluded from the list of beneficiary students under Government Resolution dated 20-09-2019 for reimbursement, the Petitioners have filed present Petitions.

Writ Petition No.358 of 2021
(Prajwal Kasbekar)

4. Petitioner's arguments:

Mr. Akshay Kulkarni, learned advocate for the Petitioner offered his verbal submissions and also relied upon his written notes of arguments. He pointed out from the reply affidavits and the sur-rejoinder filed by the respondent authorities that the explanations are absolutely inconsistent with each other. The sum and substance of Mr. Kulkarni's submissions is as follows :

a) There is no justifiable reason to discard the Petitioner from the list of the beneficiaries. It is apparent that the Petitioner was

entitled to be admitted to government medical colleges and aided medical colleges as per his merit and preferences.

- b) He submits that even admitting EWS and SEBC students, the Petitioner was entitled to be admitted in Government Medical College as per his preference. However, under the pretext that he could not be admitted on such seat due to insertion of EWS and SEBC students, the Petitioner was constrained to choose private medical college.
- c) The instances would evidently show that even students having lower merit have been admitted to government and aided medical colleges; meaning thereby the Petitioner was erringly not given admission in government and aided medical colleges despite petitioner secured higher merit.
- d) He would submit the pleadings of the respondent authorities and the record produced by them itself show that a number of students standing on AIR ranking lower to him, have been given benefit of the reimbursement scheme. As such, nothing else is required to hold that the Petitioner was eligible to be admitted to Government or Aided medical college.
- e) The more painful side of the story is that even the Petitioners are deprived of the benefit of Government Resolution dated

20-09-2019 for reimbursement of fees. Even while granting the reimbursement benefit, students having lower rank are awarded the benefit excluding the Petitioners.

- f) Some of the Petitioners were constrained to incur educational loan from banks for paying the huge fees to the private medical colleges where they are prosecuting their studies. This has created unnecessary financial burden on them.
- g) Mr. Kulkarni fairly submits that by now the medical course of the Petitioner and all batchmates is over. That, there is no use of now opening the issue of admission given to other general category students in government and aided medical colleges, despite they being lower to him on merit. But atleast, the Petitioner should have been monetarily compensated by giving benefit of the Government Resolution dated 20-09-2019.
- h) Considering the unjustifiable action of the respondent authorities, the Writ Petition be allowed and the authorities be directed to grant the benefit of reimbursement to the Petitioner under Government Resolution dated 20-09-2019.

5. **Respondents' submissions:** Suffice to note, the respondents filed more than one reply affidavits in the Writ Petitions. Their defense is as under :-

- a) The Petitioners could not have secured admission in government or aided medical institution considering their merit, even if there was no EWS or SEBC reservation.
- b) If there was no merit to get admission in government or aided medical college, there was no occasion to miss admission due to induction of EWS and SEBC quota students. As such, the authorities are absolutely justified in not conferring the benefit of reimbursement to the Petitioners.
- c) The record placed before the Court pertaining the merit of the candidates, seat data and merit data for admission to medical course in 2019-2020 would clearly show that the petition is misconceived. Hence the Writ Petition is liable to be dismissed.
- d) The respondent authorities rely upon their reply affidavits and reiteration that the petitioners were not meritorious enough to get admission to government or aided medical colleges at all.

6. Consideration and discussion:-

Before we proceed to deal on merits of the petitions, we deem it appropriate to record certain proceedings in the matters.

- i. Voluminous record is produced before us by both the sides to support their respective submissions. Considering the complex submissions, particularly from the responding side,

this Court vide order dated 03-01-2024 directed the learned Assistant Government Pleader to call a responsible officer alongwith the record. The matter was posted to 16-01-2024.

- ii. On 16-01-2024, instead of arranging presence of any responsible officer from the State Department of Medical Education, the respondent authorities sent one Vinod Mudada, an associate professor from Government Medical College, Aurangabad. This Court expressed utter displeasure on the response offered from the government side. Hence this Court directed that on the next date of hearing, the Deputy Director of Medical Education and Research, State of Maharashtra be present with original file on the basis of which, the reply affidavits are filed.
- iii. The matter was then listed on 31-01-2024, 08-04-2024, 29-07-2024, 24-09-2024, 24-01-2025, 21-02-2025, 09-04-2025, 18-07-2025, 08-09-2025, and 29-01-2026. On those days, due to paucity of time the matter could not be heard, except on one or two occasions. However, from the record it reveals that this Court was not apprised about compliance of the directions to keep the Deputy Director of Medical Education and Research present in the court.

- iv. On 27-04-2026, this Court again directed that if on 10-06-2026 instructions are not received from the respondent authorities and reply to rejoinder is not filed, Respondent no.2 shall remain personally present in this Court on next date.
- v. On 10-06-2026, the reply was not filed. However, Respondent no.2 appeared through video conferencing. It was again directed that on failure of the authorities to keep the original file present before this Court, contempt proceedings shall be initiated against the said authority.
- vi. The matter was then listed on 25-06-2026. On that day, the Deputy Director didn't appear. Instead some lower rank officers were sent. It was noticed that they too took the hearing and the directions in very casual manner. False statements were made about availability of original record. Hence, this Court recorded conduct of the authorities and initiated *suo motu* contempt proceedings against the officers. Directions were given to record the conduct of those officers in their service book.
- vii. Subsequently, the responsible officers against whom this Court has initiated *suo motu* contempt proceedings filed

Civil Application. They tendered unconditional apology, assured to obey the directions, and prayed to drop the contempt proceedings.

- viii. Upon giving cautious consideration to the submissions in the Civil Application, this Court recalled the directions to initiate *suo motu* contempt proceedings. However, cost of Rs. 10,000/- each was saddled on the officers excluding one Mr. Narvekar who was not from the respondent office. This was subject to the further conduct of the respondent authorities.
- ix. As such, thereafter this matter is taken up for final disposal.

Note of pleadings

- x. We have gone through the reply affidavits and the sur-rejoinders filed by the respondents. The respondents filed one reply affidavit and one additional reply affidavit. The Petitioner filed one rejoinder. The respondents filed one sur-rejoinder. We notice that in the reply affidavit the respondents' predominant explanation is that on account of his merit, the Petitioner could get admission in the same college where he is now – even if no reservation to EWS and SEBC was made applicable.

- xi. As such, respondents contend that the Petitioner does not fall in the category of students who had to opt admission to private medical college because of admitting EWS and SEBC students in the government or aided medical college. Thus, as per the respondent there was no occasion for enlisting Petitioner's name in the list of beneficiary students for reimbursement.
- xii. However, we are surprised by the drastic change in the justification offered by the respondents vide their additional affidavits and sur-rejoinder. In the reply affidavit, the respondents sought to submit that due to application of 70% : 30% quota (regional/AIQ), the candidates cited by the Petitioners were accommodated on regional quota i.e. 70%. As such, respondents attempted to come out of the allegation that less meritorious students were given admission to government medical college in Vidarbha.
- xiii. In order to substantiate his contention, the Petitioner has referred a student namely XXX standing at NEET AIR ranking 34449 and another YYY standing at NEET AIR ranking 34820. Those two students are apparently below the Petitioner's merit i.e. below NEET AIR 34441. While the

Petitioner had given preference to V.N. Medical College Yavatmal (a government/aided medical college), he was denied such admission. However, those referred students were given benefit of the Government Resolution dated 20-09-2019. This straightway falsifies the defense of the respondents that the Petitioner was not eligible to get a government or aided medical college.

- xiv. Obviously, if the students standing at lower position on merit were offered benefit of the scheme, the Petitioner too was entitled for such benefit.
- xv. Thus, we are convinced that the Petitioner is such a student who suffered loss of admission at medical and aided medical college on account of application of EWS and SEBC reservation. Consequently, he falls fit in the parameters set in Government Resolution dated 20-09-2019 for benefit of reimbursement of fees.
- xvi. Although the Petitioner has fairly stated on oath that he does not now challenge admission to other students, we are constrained to express our disappointment on the suspicious and non-transparent stand of the respondent authorities.

- xvii. Vide the sur-rejoinder, the respondent authorities sought to say that on account of 70% : 30% quota system, the Petitioner could not have been admitted to any government or aided medical college at his preference college at Yavatmal. We do not comprehend with the logic and explanation offered by the respondent authorities. However, as per the record produced before us the Petitioner could be given benefit of his preference by applying appropriate quota. In any case, the Petitioner was entitled for admission at his choice colleges corresponding to his merit as per the record.
- xviii. We disapprove the justifications offered by the respondent authorities. Merit can never be compromised nor can be on second pedestal. If the Petitioner was on higher rank, he could not have been denied such admission. The questioned admissions is of 2019-2020. The Writ Petition was filed in 2021 itself. The matter remained pending on account of the time expended by the respondent authorities on one or the other count. By now when we prevailed upon the respondent authorities to work out the matters, the Medical course is over. It is accordingly suggested by the respondent

authorities that going further on the point of correctness of admissions in government or aided medical colleges would of no avail to anybody.

- xix. Since the Petitioner has chosen not to go on this aspect and restricts his petition only for reimbursement of fees as per Government Resolution dated 20-09-2019, we refrain our temptation from commenting more on this.
- xx. However, we are of the considered opinion that the allocation of seats in the government and aided medical college at the relevant time is not transparent and not in strict accordance of merit as also the correct methodology. We hope that the higher officers from the Medical Education and Research department would look into this aspect and would ensure in future such incidences do not take place.
- xxi. Anyway, we are satisfied that the Petitioner has made out a successful case to establish that he deserves benefit under the Government Resolution dated 20-09-2019.

Writ Petition No.6715 of 2020
(Sejal Bhale and two others)

- xxii. In this case also, the respondent authorities filed two reply affidavits. The Petitioners filed two rejoinders. The respondent authorities filed sur-rejoinder.
- xxiii. Petitioner No.1 – Sejal Bhale secured NEET AIR Ranking 34789. Petitioner No.2- Aishwarya Dhadwal secured NEET AIR ranking 35738. Petitioner No.3- Sharvari Deshmukh secured NEET AIR ranking 36711.
- xxiv. From the record placed before us, it is seen that 25 students out of 106 to whom the benefit of Government Resolution dated 20-09-2019 is granted, stand on lower merit than the petitioners.
- xxv. These three petitioners are also such students who were deserving admission at government or aided medical colleges. However, they were not only deprived of such admission but also were deprived of the fees reimbursement benefit under the Government Resolution dated 20-09-2019.
- xxvi. Considering that the discussion would inevitably require to refer to the names and details of the students, we cautiously refrain from recording the further details of the unjustifiable acts of the respondent authorities, and restrict our

observation to the extent of Petitioners' entitlement for fees reimbursement.

- xxvii. During the course of hearing, the personally present respondent authorities tried to convince us with some tabular chart to show the region-wise cut off marks and the number of seats. By this, it was attempted to point out that none of the petitioners were eligible for admission to government or aided medical colleges. We see that the record bear no signature, no seal, no name of the issuing or certifying authority. We are further constrained to observe that this is nothing but misleading documents produced before us. The data and record produced before us, as rightly pointed out by Mr. Akshay Kulkarni, learned advocate for the Petitioner in Writ Petition No.358 of 2021 pertains to First round which doesn't affect merit of Petitioners' case. This record is produced before us is obviously to impress that none of the Petitioners was qualified for admission to government or aided medical colleges in the State. This data is not of last round and hence of no avail to take into consideration.

Anyway, since we are not convinced about its authenticity, we discard the said record.

xxviii. Even otherwise, the respondents are not in a position to counter the factual aspect of ranking secured by all the petitioners in both the Petitions; nor they can dispute that 25 students standing below the Petitioners on merit and from general category have been given benefit of Government Resolution dated 20-09-2019. The position can be seen as follows :

Candidates from 106 list who are lower in rank than the respective petitioners and given benefit of the reimbursement scheme. (For illustration purpose, Petitioners Prajwal is referred to as 'P1', Sejal as 'P2', Aishwarya as 'P3' and Sharvari as 'P4'.)

No.	Candidates	AIR	Colleges allotted	Lower in rank than the petitioners
1	X1	34449	NKP Salve MC, Nagpur	P1
2	X2	34820	NKP Salve MC, Nagpur	P1, P2
3	X3	34905	Dr. U. Patil, MC, Jalgoan	P1, P2
4	X4	35369	Dr. U. Patil, MC, Jalgaon	P1, P2
5	X5	35732	IIMSR, Jalna	P1, P2
6	X6	35924	V. Pawar MC, Nashik	P1, P2, P3
7	X7	36132	NKP Salve MC, Nagpur	P1, P2, P3
8	X8	36209	NKP Salve MC, Nagpur	P1, P2, P3
9	X9	36463	NKP Salve MC, Nagpur	P1, P2, P3
10	X10	36797	NKP Salve MC, Nagpur	P1, P2, P3, P4

11	X11	36892	NKP Salve MC, Nagpur	P1, P2, P3, P4
12	X12	36916	PDMC, Amravati	P1, P2, P3, P4
13	X13	36948	NKP Salve MC, Nagpur	P1, P2, P3, P4
14	X14	37541	PDMC, Amravati	P1, P2, P3, P4
15	X15	37910	V. Pawar MC, Nashik	P1, P2, P3, P4
16	X16	38663	MIMER MC, Talegaon, Pune	P1, P2, P3, P4
17	X17	39445	NKP Salve MC, Nagpur	P1, P2, P3, P4
18	X18	39532	NKP Salve MC, Nagpur	P1, P2, P3, P4
19	X19	40233	ACPM MC, Dhule	P1, P2, P3, P4
20	X20	40328	ACPM MC, Dhule	P1, P2, P3, P4
21	X21	40950	NKP Salve MC, Nagpur	P1, P2, P3, P4
22	X22	41073	ACPM MC, Dhule	P1, P2, P3, P4
23	X23	41109	NKP Salve MC, Nagpur	P1, P2, P3, P4
24	X24	42538	VVPF'S MC, A.Nagar	P1, P2, P3, P4
25	X25	42802	ACPM MC, Dhule	P1, P2, P3, P4

To be more specific, the exact number of students having lower ranking than the petitioners can be seen as follow :

Name of Petitioner	Number of candidates lower in rank than petitioners
Prajwal Kasbekar	25 students
Sejal Bhale	24 students
Aishwarya Dhadwal	20 students
Sharvari Deshmukh	16 students

Both Mr. Kulkarni and Mr. Patil, learned advocates for the petitioners, were at pains to demonstrate another peculiar issue in these matters. They would point out that, out of 106 students to whom the benefit of reimbursement is given, 24 students are from the Vidarbha region and 82 students are from the rest of Maharashtra. They would further point out that for the purpose of

medical admissions, the State Government has identified and defined "Marathwada" as a region. They expressed their bewilderment in not finding a single student from "Marathwada" region in the said list. Both submit that they do not argue on regionalism, but there is strong room to doubt that the selection of the beneficiaries is not comprehensive.

xxix. Hence we record that the Petitioners were denied the benefit of fees reimbursement only on the count that they could not have secured admission to government or aided medical college even if EWS and SEBC reservation was not applied. We record our observation and findings that this defense is factually incorrect. The facts speak themselves. The record produced by the respondent authorities is crystal clear demonstrating that the Petitioners were very much entitled for admission in government or aided medical college, and that they deprived of the opportunity. Consequently, the Petitioners deserve benefit of fees reimbursement.

7. Conclusion:

(i) There is an important aspect in these matters, which we feel it necessary to discuss. In our society, still we believe and trust

if we get admission in Government colleges for professional courses, we have proven our mettle. This makes us proud of the rigorous efforts we took for the achievement. It further encourages us and boosts our confidence to do even better. Needless to mention, the study and exercises are focused predominantly with this object. Not everyone can reach to this goal. Disappointment is often seen on falling short to reach the goal. This remains personal affair so long as really the shortfall in touching the line is concerned. But when it is realized that despite having crossed the finish-line, you are not recognized to be a successful finisher, it deeply and adversely affects not only the career but the temperament of such finisher. It is just like a fielder succeeds for a difficult catch, but is shown to have caught beyond the border. The surprise turns into agony when the fielder learns that the borderline is silently shrunk or bartered. The agony multiplies when it is realized that it is done lacking of transparency. It is the foremost duty of the executives to souse trust deep in the minds of the citizen about transparency of the system. The conduct of the executives in the cases like in hand, unfortunately extirpate such trust

despite novel and benevolent objects are framed by the government.

(ii) We record our serious displeasure on the administration and conduct of medical admission at the hands of the respondent authorities as observed above. We find that the admission process and implementation of fees reimbursement scheme utterly lacked of transparency and accuracy. The then admission authorities interfered with career of students for the reasons best known to them, and atleast on wrongful application of quota system.

(iii) We have taken serious note of the last but not the least argument of the petitioners about non-inclusion of any student from the Marathwada region in the list of beneficiaries. We do agree that this is not a case of regionalism but the authorities must look into it seriously and meticulously as to whether the list of beneficiaries was comprehensive and whether it was prepared after examining the merit of the students from the Marathwada region as well. The objection raised by the petitioners sounds probable. We hope the Respondent no.2 and the Principal Secretary of Medical Education and Drugs Department, Government of Maharashtra look into this

seriously. The Writ Petitions, as observed supra remained pending at the behest of respondent authorities until the subject-matter medical course was completed. We have every room in our minds to infer that it was to avoid the issue of allocation of seats in government medical colleges, to be surfaced before this court.

The Petitioners had to bear unnecessary financial burden. The trauma and the pains suffered by the Petitioners are intangible. The delay on the part of the respondent authorities in assisting the Court, rather avoiding the original record from being produced before this Court do speak itself. We are of the considered view that the Petitioners deserve to be compensated by saddling exemplary cost on the respondent authorities.

(iv) For reasons recorded above, the petitions deserve to be allowed. It is pointed out by the Petitioners that they had incurred education loan to pay the fees in the private medical college. The Petitioners had to unnecessarily undergo mental trauma due to inefficient and casual approach of the respondent authorities. Hence, we feel it appropriate to grant interest on the reimbursement amount.

8. Hence, we pass following order :

ORDER

- I. The Writ Petitions stand allowed.
- II. It is declared that the Petitioners are entitled for reimbursement of such amount of fees as is provided under the Government Resolution dated 20-09-2019.
- III. Within four weeks from today, the Petitioners shall submit to the Director of Medical Education and Research, State of Maharashtra, a reimbursement statement with receipts issued by their colleges towards the fees paid by them. The Petitioners shall supply their account details for credit of the reimbursement.
- IV. Upon receipt of such reimbursement claim, the Director of Medical Education and Research, State of Maharashtra immediately, and in any case within eight weeks shall issue reimbursement together with 6% simple interest to the Petitioners as per their claim directly into the accounts of the Petitioners. If the amount is not paid within eight weeks, it shall carry interest at the rate of 9%.
- V. The respondents shall pay cost of Rs. 50,000/- each to the petitioners within a period of Eight weeks from today. The Cost be deposited in this Court within such period. If the cost is not deposited, the same be recovered as land revenue from the concerned

responsible officer(s). If cost is deposited, the Petitioners shall be entitled for its withdrawal without making any separate Civil Application.

- VI. Copy of this judgment be brought to the notice of the Principal Secretary of Medical Education and Drugs Department, Government of Maharashtra, for suitable action. The said authority shall conduct an enquiry into this issue for the reasons recorded in our consideration part. We hope and expect that the said authority, after conducting an enquiry shall adopt suitable and efficacious measures to avoid such incidences in future.
- VII. Compliance of this order be submitted to the learned Registrar (Judicial) of this Court within Ten weeks from today.
- VIII. Rule made absolute in terms of above.

[AJIT B. KADETHANKAR, J.]

[KISHORE C. SANT J.]

PRW