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IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO.1888 OF 2024(F)**

Miss. Amanda Andrea Menezes
d/o. Andre Amaral Angelo Menezes
aged about 28 years old
r/o H.No.AT3, Campo Verde,
Kerant, Caranzalem, Panaji,
Tiswadi-Goa, Represented through
Her father and Power of attorney
Dr. Andre Amaral Angelo Menezes
r/o H.No.AT3, Campo Verde,
Kerant, Caranzalem, Panaji,
Tiswadi-Goa.

...PETITIONER

VERSUS

1. State of Goa,
Through Chief Secretary,
Government of Goa
Secretariat Porvorim, Goa.

2. Administrative Secretary/Secretary, Education
Government of Goa,
Secretariat Porvorim, Goa.

3. Directorate of Higher Education
Government of Goa, SCERT Building,
Alto Porvorim-Goa.

... RESPONDENTS

Mr. Ivan Santimano, Advocate for the Petitioner under Free Legal
Aid Scheme.

Ms. Deep Shirodkar, Additional Government Advocate for

Respondent Nos. 1, 2 and 3.

Mr. S. S. Kantak, Senior Advocate with Mr. Saicha Desai and Mr. Kher Simoes, Advocates for Respondent No 12.

Mr. Jay Mathew, Advocate for Respondent No. 27.

**CORAM:- M. S. KARNIK &
NIVEDITA P. MEHTA, JJ.
DATED :- 06th March, 2025**

JUDGMENT (Per Nivedita P. Mehta, J.)

The petitioner by the present petition is seeking to quash and set aside letter/order no. MPGSS/01/2023/695, dated 12.09.2023 and the lists drawn up by the Director of Health Education including the list of candidates selected under Manohar Parrikar Goa, Scholars Scheme for the academic year 2022-2023. The petitioner further seeks issuance of directives required to be followed in accordance with the Screening Criteria laid down in Clause IX of the Scheme be held to be in contravention to Article 14 and 15 of the Constitution of India with other ancillary reliefs.

FACTS:

2. The instant petition has been filed by Ms. Amanda Andrea Menezes who is presently pursuing a PHD program in Medicinal Chemistry at the University of Toledo, Ohio, USA. Prior to enrolment in this program, the petitioner had attained a Bachelor's degree in Pharmacy followed by a Master's degree in Pharmacy in

November 2021. Post-completion of her post-graduate degree program, she joined the Goa Chief Minister's Fellowship Program in January 2022.

3. The petitioner had applied vide application registration number 2022230117 to respondent no. 3 for an award of scholarship under the Manohar Parrikar Goa Scholars Scheme 2018 (hereinafter referred to as "the scheme") for the academic year 2022-2023, for the program she is presently enrolled in. Under the scheme, there is a screening process that conducts shortlisting of candidates in phases. After the publishing of the initial scrutiny list, the petitioner stood on serial number 142 out of 172.

4. Aggrieved by this tentative list, the petitioner on 28.04.2023 addressed an email to respondent no.3 seeking redressal as to why her application for doctoral studies was being placed in the same list as applications for pursuing post-graduate education. Respondent no.3 duly replied to her grievance and stated that there is no provision under the scheme to earmark seats separately for postgraduate and doctoral studies. Subsequently, on 05.05.2023, the applicant addressed another email to respondent no.3 stating that the shortlisting process in the scheme is devoid of intelligible differentia

and violative of her fundamental rights under Article 14 of the Indian Constitution.

5. Subsequently, respondent no.3 published a list of top 60 applicants for the final selection interview on their website. The 60 shortlisted applicants were the same as the top 60 in the initial scrutiny list, therefore the petitioner was not in this list.

6. The petitioner submits that the screening criteria to shortlist applicants for benefits under the scheme are in contravention of Article 14 and Article 16 of the Indian Constitution, hence this petition.

ARGUMENTS ADVANCED BY THE PARTIES

7. It has been argued by Mr. Santimano learned counsel for the petitioner as under:

a) That such a criterion is arbitrary and devoid of reasonable classification. The criteria for shortlisting the candidate on a 100-point scale dictates that the curricular/academic achievements shall be assigned 100 marks, out of which, marks obtained in standard 10th accounts for 40% weightage, marks obtained in standard 12th accounts for 30% weightage, and, marks obtained in the

graduation accounts for 30% weightage. It has been argued that such a screening process is prejudicial to the doctoral applicants being allowed an objective shortlisting process and a level-playing field. The screening process does not take into account marks obtained at the post-graduate level by applicants for doctoral courses.

b) The post-graduate applicants and doctoral applicants cannot be put in one basket as equals and therefore the scheme seeks to treat unequal's, equally, which is violative of Article 14 and Article 16 of the Indian Constitution.

c) Reliance is placed on the following judgments:

a. U.P. Power Corporation Ltd. v. Ayodhya Prasad Mishra, 2008 10 SCC 139.

b. M.P. Rural Agriculture Extension Officers Association v. State of Madhya Pradesh, 2004 0 AIR (SC) 2020.

c. Dev Gupta v. PEC University, 2023 AIR (SC) 3723.

d. Pranati Aguan v. State of West Bengal & ors., WPA 21174 of 2017 dated 10.06.2022 of the High Court at Calcutta.

e. Joaquim I M Dias v. R.S. Revonkar, 1990 (1) Mh.L.J.

8. *Per Contra*, Mr. Deep Shirodkar, learned Additional Government Advocate (AGA) for respondents 1, 2 and 3 submits:

a) The petitioner being aware of the scheme as notified in the Official Gazette dated 07.05.2020 and the criteria provided thereunder for screening candidates, chose not to challenge the scheme and instead voluntarily applied for being considered for scholarship in terms of the scheme. Having so applied, the petitioner cannot be permitted to challenge the scheme only because the petitioner failed to qualify for the shortlist of the 60 candidates.

b) The petitioner applied for the scheme in the academic year 2022-2023. Thirty students were awarded the Scholarship. The order on the representation of the Petitioner was passed on 12.09.2023. The sanction of the Government was granted for expenditure of Rs. 4,99,25,000/- by order dated 22.11.2023. The petition was filed on 02.08.2024, about a year after the representations were rejected on 12.09.2023.

c) Respondent no.2 has carried out the shortlisting process strictly based on the criteria and the guidelines provided under the scheme. When a representation was addressed by

the petitioner, it was duly placed before the selection committee and considered. In response to the representation, respondent no.2 gave its observations in Order dated 12.09.23.

d) It is settled law that courts cannot interfere in matters of policy of the state on the ground that there can be a better or wiser policy, and that the wisdom of a policy cannot be gone into in the exercise of writ jurisdiction. In support of this argument, reliance has been placed on the ruling in ***Sri Sri Ravishankar Vidya Mandir, Osmanabad v. Govt. of India & ors.; 2023 SCC OnLine Bom 1928.***

9. Learned Senior Advocate Mr. Kantak appearing on behalf of the successful candidate submitted as under:

a) The Respondent no. 12 was awarded the scholarship and has already completed her post-graduation course. It is relevant to note certain dates which if considered would render the reliefs as claimed by the petitioner substance-less. The scheme was published in the Gazette dated 07.05.2020. The Selection list of the scholars for the year 2022-2023 was published on 22.11.2023. The Petition was filed as per the copy supplied to respondent no. 12 sworn on 28.06.2024. The

Petition was listed for the first time before the Court on 26.11.2024. This reflects the casual attitude of the petitioner.

As regards the challenge made on merits respondent no. 12 adopts the arguments advanced by the Government Advocate.

10. Heard learned counsel on behalf of the respective parties.

ANALYSIS

11. The Manohar Parrikar Goa Scholars Scheme 07.05.2020 aims to promote the pursuit of postgraduate and doctoral Studies by the younger populace of Goa by categorising meritorious and outstanding candidates. The scheme provides for eligibility conditions, application procedures, screening committee criteria for shortlisting, selection committee, criteria for selection etc. However, the scheme does not provide a distinct categorization for postgraduate and doctoral applicants. Applicants under the scheme to pursue postgraduate and doctoral studies are put in the same bundle of applicants.

12. In order to determine the comparative merit of all the applicants, only the marks obtained up to the graduation level are considered and this method can only be fair and objective if marks

obtained in postgraduate degree are not taken into account since these marks are not available to candidates who aspire to pursue post-graduation.

13. The shortlisting criteria are given in Clause 9 of the scheme as notified vide Notification- 9/99/Goa Scholar/DHE/2019-20 of the Official Gazette of the Government of Goa dated- 07.05.2020. To understand the controversy in issue, Clause 9 is extracted hereunder:

IX. Criteria for shortlisting eligible candidates by Screening Committee.- The Screening Committee shall shortlist the candidate on following criteria:

1. The candidate shall be evaluated for shortlisting on a 100 point scale.

2. Only curricular/academic achievements shall be considered for shortlisting the candidates.

3. Curricular/academic achievements shall be assigned 100 marks. Marks obtained by the candidate in the SSC (Standard X) examination shall be assigned 40% weightage being a common exam and shall be assigned 30% weightage each to marks obtained in HSSC (Std. XII) and Graduation (Bachelor's degree) examinations, respectively.

4. Any candidate who has cleared/ passed S.S.C., H.S.S.C. or Graduation examination with grace marks shall not be considered for shortlisting.

However, participation of the candidates in N.C.C., N.S.S., Sports, Cultural Activities shall be considered by the Selection Committee at the time of interview. No grace marks for NCC, NSS, Sports, Cultural activities shall be considered while shortlisting eligible candidates.

5. The Screening Committee shall recommend top 60 candidates with minimum aggregate score of 70 marks after assigning the above weightages to their academic/curricular achievements for final selection/interview. For the 60th position, if more than one candidate secure same marks, all those with the same marks will be called for the interview.

14. The case of the petitioner is that the criteria of shortlisting applicants under the scheme suffers from unintelligible differentia and a lack of reasonable classification.

15. It has also been submitted by the petitioner that the aim and objective of the scheme was to empower the student populace of Goa to pursue post graduate education and doctoral courses and in view of this, non-distinction between the two groups of applicants is antithetical of the aims and the objectives of the scheme. According to the petitioner such a criterion is arbitrary and devoid of reasonable classification.

16. *Per Contra*, in response to the representation addressed by the petitioner, vide dated Order dated 12.09.23, respondent no.2, observed, in clause (vii) and clause (viii) of paragraph 9, submitting the contents of clause 11 of the scheme which lay down the screening criteria for the final selection of Goa Scholars. The relevant part of the observation has been extracted hereunder:

vii. Under clause IX of the Scheme, there is no mention of the academic achievements at the Post Graduation Studies for shortlisting candidates who are pursuing Doctoral Studies. Hence, the claim that candidates pursuing Doctoral Studies are denied consideration of their immediately preceding academic qualifications or achievements is not valid and is not in accordance with the Scheme. Also, it is pertinent to note that there are a total of 8 candidates who are pursuing the Doctoral Studies in the list of 60 eligible candidates. Hence, it is evident that the criteria mentioned in the Scheme is not detrimental to the students pursuing Doctoral Studies.

viii. Under clause XI of the Scheme, the criterion for selection is laid down, which considers only 45% weightage to the aggregate marks obtained at the common examinations, and the rest 55% is based on the interview answered by the candidate,

the extra-curricular and co-curricular activities, and the reputation of the institution where admission is sought. Hence, the Scheme allows the recognition of research work or other achievements of the candidates.

17. The case of the petitioner rests on the lack of reasonable classification of two groups, i.e. applicants for post-graduate education and applicants for doctoral studies. Classification of two groups under the doctrine of reasonable classification must be based on a difference that has a rational nexus with the object intended to be achieved by the legislation. We are of the view that there is no rational basis for distinguishing the two groups based on the aim and objective of the scheme.

18. Further, to earmark seats for one group of people is a matter pertaining to the framing of the scheme to be decided upon by the drafters of the scheme. Therefore, the question that would arise for our consideration to grant the relief sought by the petitioner is whether this court may, in exercise of writ jurisdiction direct the respondents to alter the screening criteria under the scheme.

19. With regards to the issue framed in the preceding paragraph, the petitioner has submitted that all state policies governing the citizens are subject to judicial review and judicial scrutiny. In support

of this argument, the petitioner has placed reliance upon the ruling in *Joaquim I M Dias (supra)*. This ruling is distinguishable on facts since it contemplates equality as guaranteed under Article 16 of the Indian Constitution and in the present petition, there is no issue pertaining to equality in public employment.

20. In *M.P. Rural Agriculture Extension Officer Association (Supra)*, reasonable classification of employees based on education level is held as valid. This classification was drawn with regards to pay-scales of two groups of people holding different educational qualifications. It is with respect to entitlement to emoluments, that such reasonable classification is drawn. While it validates education qualification as a ground for such classification to be drawn, considering that the legislative intent has to be taken into consideration, the ratio in this ruling may be distinguished upon. *Dev Gupta (Supra)* and *Pranati Aguan (Supra)*, shed light on the doctrine of reasonable classification, but are not applicable to the instant petition as the test for reasonable classification has to be measured against the legislative intent of the scheme.

21. It is true that the Courts can indulge in scrutiny and review of state policies, however, it is trite law that this power can only be exercised with great caution only in circumstances as have been

expressly provided for in a catena of judgments by the Hon'ble Supreme Court.

22. In *Sri Sri Ravishankar Vidya Mandir (supra)*, a division bench of this court while contemplating the capacity of a court to intervene in a scholarship scheme has observed that courts should be slow to step into the legislative prerogative of framing policies. In this light, the observations of the court in paragraphs, 18, 21 and 22 have been extracted hereunder:

18. The respondent No. 1 is competent to formulate the policy. The required budgetary provisions are also made. The experts in the field have deliberated and recommended the policy. The scholarship scheme casts a financial burden, therefore, it is the prerogative of the respondent No. 1 to lay down the eligibility criteria for awarding the scholarship to the students. It is the wisdom of the respondent No. 1 to determine a class of students to whom financial assistance is to be extended. We are afraid we can not dictate terms in policy matters to the State Government.

21. For examining the policy on the touchstone of permissible classification two conditions are laid down by the Constitution Bench matter in the matter of Budhan Choudhary v. State of Bihar,

reported in (1954) 2 SCC 791 : AIR 1955 SC 191. We are of the considered view that both the conditions in the present matter are fulfilled. Consciously the respondent No. 1 created two classes and it is the wisdom of the respondent No. 1 not to disburse the scholarship throughout country irrespective of nature of the school, because it involves availability of the funds. The respondents are the best persons to decide and determine how to spend and where to spend its corpus. The Court of law cannot insist the respondent No. 1 to formulate policy involving financial liability in a particular manner.

22. While examining the validity of policy of government we have limited scope. High Court cannot substitute the policy decision of the government. Neither can we suggest what is best suitable to the situation. It has to be left to the wisdom of the respondent No. 1. In the absence of any violation of the statutory provision or arbitrariness, the High Court has very little role to monitor the policies of the Government.”

23. The aforementioned ruling places reliance on the judgment in ***Maharashtra State Board of Secondary and Higher Secondary***

Education v. Paritosh Bhupeshkumar Sheth; (1984) 4 SCC 27

wherein the Hon'ble Supreme Court has opined that:

"16. ...The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act. The legislature and its delegate are the sole repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the Court unless the particular provision impugned before it can be said to suffer from any legal infirmity, in the sense of its being wholly beyond the scope of the regulation-making power or its being inconsistent with any of the provisions of the parent enactment or in violation of any of the limitation imposed by the Constitution."

24. In *Federation Haj PTOs of India v. Union of India*; (2020) 18 SCC 527, the Hon'ble Supreme Court has placed reliance upon the position as extracted in the preceding paragraph and opined that:

“The scope of judicial review is very limited in such matters. It is only when a particular policy decision is found to be against a statute or it offends any of the provisions of the Constitution or it is manifestly arbitrary, capricious or mala fide, the Court would interfere with such policy decisions, No such case is made out. On the contrary, views of the petitioners have not only been considered but accommodated to the extent possible and permissible. We may, at this junction, recall the following observations from the judgment in Maharashtra State Board of Higher and Secondary Education v. Paritosh Bhupeshkumar Sheth...”

25. It is well settled that the Courts will not interfere in matters of policy of the State on the ground that there can be a better or wiser policy. In view of the ratio laid down in the aforesaid three judgments, in the exercise of writ jurisdiction, this court cannot dictate the terms of how, under a social welfare scheme framed by the State Legislature, the benefit is meted out to the target demography. It lies purely in the realm of legislative prerogative to decide upon the terms of eligibility of the benefit under the scheme.

26. It is our view, in light of the aforesaid considerations, we are not inclined to grant relief as prayed for by the petitioner. Therefore, this petition is dismissed. In any case the decision cannot be said to be arbitrary or discriminatory. No costs.

27. We place on record our appreciation for the impressive manner in which Shri Ivan Santimano appointed through free legal aid canvassed the propositions involved in this petition.

NIVEDITA P. MEHTA, J.

M. S. KARNIK, J.