

**Court No. - 18**

**Case :-** WRIT - C No. - 14667 of 2021

**Petitioner :-** Yaqoob Alam And Others

**Respondent :-** State Of U.P. Thru. Prin. Secy. Minority Welfare And Waqf Andors

**Counsel for Petitioner :-** Piyush Mani Tripathi,Ashma Rahman,Mohd. Kumail,Vijay Vikram Singh

**Counsel for Respondent :-** C.S.C.,Manjeet Shukla

**Hon'ble Pankaj Bhatia,J.**

Heard learned counsel for the petitioners, Sri Piyush Kumar, learned counsel for respondent nos.1 to 3 and Sri Manjeev Shukla, learned counsel appearing for the respondent no.4.

The present petition has been filed by the petitioners claiming that they were enrolled as students of the respondent no.4-college in five years course i.e. B.A. LL.B (Hons.) while the petitioner no.4 is a research scholar. It is said that the petitioners were entitled to the benefits of the scheme promoted by the State known as the U.P. Post Matric Scholarship (Dashmottar scholarship).In terms of the said scheme, the financial benefits were to be accorded to the students of Schedule Castes, Schedule Tribes, Other Backward Classes, Minority and General categories as specified in the said Scheme. The details with regard to commitment of the benefits under the said Scheme were duly depicted in online portal. In terms of the stipulation as prescribed in the online portal, a schedule was printed for inviting applications. It is stated that the petitioners' forwarded their applications in particular the application of petitioners no.2 to 4 to the University for renewal of the

scholarship as they were accorded benefits in the previous academic sessions, however they were required to apply a fresh for the subsequent year. In respect of petitioner no.1, it is stated that the petitioner no.1 had applied a fresh for the grant of benefits. It is argued that on 20th February,2021 the University again forwarded the hard copy of the petitioners' application after correcting the errors that were reflected on the online portal. It is stated that no steps were taken by the District Scholarship Committee and thus, the petitioners approached the University which send a reminder dated 7th April, 2021, stating therein the adequate steps be taken for pursuing the matters. Subsequently, as nothing was done, several complaints were made and as the amounts were not paid, the present petition has been filed.

Learned counsel for the University states that as the University has forwarded the requisite applications to the District Minority Welfare Officer,which was reiterated in the communication dated 7th April, 2021 (Annexure no.5 to the writ petition) and it was Minority Welfare Officer, who has to pursue the grant.

The State, on the other hand, has taken a stand that the documents after correction, were not forwarded within the time prescribed and as the scheme under which the benefits are to flow is year specific and fund specific, the writ petition cannot be allowed as the financial year has come to an end.

Counsel for the petitioners places reliance on the judgment of this Court in ***Special Appeal Defective No.581 of 2014 (State of U.P. and others Vs. Swami Vivekanand Law College B.K.T. Lucknow)*** decided on

23.02.2015 whereby the same arguments that the scheme was budget specific and year specific was repelled by this Court holding that for want of budgets or finance, the eligible candidates could not be denied the benefits.

Standing Counsel, on the other hand, places reliance on the decision of this Court in the case of ***Aditya Tiwari and another Vs. The State of U.P. and others*** reported in ***2020 (38) LCD 2502*** wherein this Court while dealing with the similar scheme rejected the challenge to the part of the scheme on the ground that once the petitioners had applied under the Scheme, they could not turned around to argue that the conditions were onerous or discriminatory. The court also recorded in paragraph-60 that the student who is originally ineligible to claim fee would not become eligible merely because the college in which studies were being undertaken was under one of the categories mentioned for grant of benefits.

In view of the said submission, this Court has to decide the entitlement of the petitioners for the benefits under the Scheme. The facts remains that there is no dispute that the petitioners had applied within the time prescribed. The only ground for denying the benefit was that the defects were not removed within time, which fact was never in the control of the petitioners as the same was to be done by the respondent no.4. The respondent no.4 claims to have submitted all the documents after rectification as is also clear from the communication of the University as contained in Annexure no.5 being communication dated 7th April, 2021. In view thereof, coupled with the fact that the communication dated 7th April, 2021 was never rebutted by the respondent no.2. I

have no hesitation in holding that the petitioners were eligible as they had applied within the time prescribed. The other ground of the State for not giving the benefit being that the scheme was fund related and time related has already been repelled by this Court in the judgment of the case of *State of U.P. and others Vs. Swami Vivekanand Law College B.K.T. Lucknow* (supra).

In view thereof, the petition deserves to be allowed. It is accordingly ***allowed***. The Respondent no.3 is directed to ensure that the benefits to all the petitioners under scheme are paid to them within a period of three months from today.

**Order Date :- 27.9.2022**

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