

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

**WRIT PETITION NO.5798 OF 2015**

- 1] Mahadeo s/o. Tatyrao Katare,  
Age 62 Years, Occu.: Retired,  
R/o. Shriram Nagar,  
Near Hanuman Mandir, Parbhani,  
Tq. and Dist. Parbhani
- 2] Uttam s/o. Gaju Rathod,  
Age:    Years, Occu : Retired,  
R/o. Lohara Killa, Tq. Aundha [Naganath],  
Dist. Hingoli
- 3] Gayabai Narayan Edhare,  
Age 63 Years, Occu : Retired,  
R/o. Kurhadi, Post : Bahmni,  
Tq. Jintur, Dist. Parbhani
- 4] Chavalabai Bhausing Chavan,  
Age 63 Years, Occu : Retired,  
R/o. Kurhadi Post: Bahmni,  
Tq.Jintur, Dist. Parbhani

**PETITIONERS**

**VERSUS**

- 1] The State of Maharashtra,  
Through Secretary,  
Social Justice & Special Help  
Department, Mantralaya,  
Mumbai-32.  
  
[Copy to be served on Govt.  
Pleader, High Court of Bombay  
Bench at Aurangabad]
- 2] Accountant General [A & E],  
Indian Audit and Accounts Department,  
Pension Wing, Old Building,  
Civil Line, Nagpur

- 3] The Director,  
V.J.N.T., O.B.C. & S.B.C. Special  
Help Department, Maharashtra State,  
Pune
- 4] The Divisional Deputy Commissioner,  
Social Welfare, Aurangabad Division,  
Aurangabad
- 5] The Assistant Commissioner,  
Social Welfare Department, Parbhani
- 6] The Assistant Commissioner,  
Social Welfare Department,  
Hingoli

**RESPONDENTS**

...  
Mr. Ajay D. Pawar, Advocate for the Petitioners  
Mr. A.V.Deshmukh, AGP for Respondent / State  
...

**CORAM: S.S.SHINDE &  
A.M.BADAR, JJ.**

Reserved on : 09.10.2015  
Pronounced on: 15.10.2015

**JUDGMENT:** [Per S.S.Shinde, J.]:

- 1] Heard.
- 2] Rule. Rule made returnable forthwith, and heard with the consent of the parties.
- 3] By way of this Petition, petitioners are seeking directions from this Hon'ble Court to direct respondent authorities to grant them benefits of Time Bound Promotion / Assured Career Progress Scheme [ACPS], as per Class-III and Class-IV employees of Secondary School and also

revised pension of petitioners after granting benefits of time bound promotion / Assured Career Progress Scheme [ACPS].

4] It is the case of the petitioners that, the petitioners are retired from services as members of non-teaching staff in Ashram School run by Social Welfare Department for VJNT, the petitioner No.1 retired from services on 20.02.2009 as a Senior Clerk, petitioner No.2 retired from services on 31.08.2012 as Kamathi, the petitioner Nos.3 and 4 had worked as Cook and retired from services with effect from 03.11.2011 and 30.06.2011 respectively. As per Government Resolution dated 30.04.1998, the non-teaching staff of aided Private School are receiving the benefits of time bound promotion / ACPS Scheme, but the same benefits were not given to non-teaching staff of aided Ashram School. The petitioners are entitled to receive the time bound promotion / benefits of ACPS. The State Government by Government Resolution dated 08.06.1995 issued by General Administration Department granted the same benefits to Class-III and Class-IV employees of the State Government.

5] It is further the case of the petitioners that, the petitioners had completed 12 years service in their School before retirement from service, and entitled to grant time bound promotion / benefits of ACPS scheme in favour of petitioners. The Government is making discrimination between the employees of Ashram Schools and employees of private aided Secondary School. It is further the case of

the petitioners that, this Court, by an order dated 21.09.2013 in Writ Petition No.2358 of 2013 and order dated 02.09.2014 in Writ Petition No.5047/2014, has allowed the Petitions, thereby directing the respondents to consider the claim of petitioners therein for the purpose of granting the benefit of time bound promotion / Assured Career Progress Scheme of non-teaching staff as per Government Resolution dated 30.04.1998 in stipulated time. Being aggrieved and dissatisfied by not giving time bound promotion or benefits of ACPS scheme till the retirement from services by the respondents, the petitioners preferred this Writ Petition for necessary directions.

6] It is contention of the petitioners that the employees serving in private aided Ashram Schools are discriminated, and have been denied benefits whereas, the benefits are made available to the Ashram Schools conducted by the Social Welfare Department, and other private aided schools conducted by other Departments.

7] The issue raised in the petition is no more *res integra* in view of judgment of the Division Bench at Principal Seat in Writ Petition No.2358/2013 and other companion matters decided on 21<sup>st</sup> September, 2013. The Division Bench in paragraph nos. 17 to 19 of the order has observed thus:-

*"17. The Assured Career Progress Scheme is a welfare scheme which is basically brought about to*

*remove stagnation as very few promotion avenues are available to Group 'C' and 'D' employees. The ACPS enables the eligible employees to be placed in higher pay scale. The eligible non-teaching staff of aided Secondary Schools in Group 'C' and 'D' category gets the benefit of ACPS. But the similar category of employees in the aided private Ashram Schools who perform identical duties have been denied the benefit of ACPS which infringes their fundamental rights under Articles 14 and 16 of the Constitution of India. The action of denial of benefits to the similarly placed employees discharging similar duties is arbitrary and violative of Article 14 of the Constitution of India.*

*18. Only on the basis of purported ground of financial crunch, we fail to understand the approach of the State Government of discriminating between the non-teaching staff of aided Ashram Schools and non-teaching staff of aided Private Schools. At one stage both the Schools were functioning under the control of only one department.*

*19. In our view the denial of benefit of ACPS amounts to discrimination, which is hit by the rights guaranteed by Articles 14 and 16 of the Constitution of India."*

8] In view of the decision rendered by the Division Bench, as referred to above, the petition deserve to be allowed, and the same is accordingly allowed.

9] The respondents in this petition are directed to examine the cases of each of the individual petitioner for deciding whether they satisfy the criteria laid down for claiming benefits under the ACPS to the private aided Government schools under the Government Resolution dated 30<sup>th</sup> April 1998, as modified from time to time, and if it is found that the petitioners are entitled to claim benefits under the Scheme, and they satisfy the eligibility criteria, the respondents shall extend the benefits to the petitioners herein. The respondents shall scrutinize the cases of individual petitioners within a period of six months, and extend the benefits to such of the petitioners who are found eligible, as expeditiously as possible, and preferably, within a period of four months from such scrutiny.

Rule made absolute in above terms. The Writ Petition stands disposed of accordingly.

Sd/-  
**[A.M.BADAR]**  
**JUDGE**

Sd/-  
**[S.S.SHINDE]**  
**JUDGE**