

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

WRIT PETITION NO.1628 OF 2016

1. Lotan s/o. Bhivsen Patil,
Age 46 years, Occ. Service,
2. Mohd. Shafi Mohd. Esak Patel,
Age 49 years, Occ. Service,
3. Anandkumar s/o. Budha Jagdeo,
Age 40 yars, Occ. Service,
4. Dadaji s/o. Tejaram Bagul,
Age 38 years, Occ. Service,
5. Sau. Kamlabai Girdhar Pavra,
Age 37 years, Occ. Service,

Petitioner No.1 to 5 are
r/o. Madhyamik Ashram School
Waghadi, Tq. Shirpur,
Dist. Dhule

6. Bhagawan s/o. Damodar Kulkarni,
Age 53 years, Occ. Service,
7. Ambalal s/o. Juma Pavra,
Age 50 years, Occ. Service,
8. Sharad s/o. Ratilal Wagh,
Age 45 years, Occ. Service,
9. Jaivantabai Adhar Dhangar,
Age 45 years, Occ. Service,
10. Chotulal s/o. Dattu Chaudhari,
Age 52 years, Occ. Service,

Petitioner Nos.6 to 10 are
r/o. R.C. Patel Anudanit,
Madhyamik Ashram School,
Shirpur, Tq. Shirpur,
Dist. Dhule

11.Latabai Premraj Chavan,
Age 53 years, Occ. Service,
r/o. Primary Ashram School,
Shirpur, Tq. Shirpur,
Dhule. Dhule

12.Sau.Bebi Damu Randive,
Age 40 years, Occ. Service,
r/o. Primary Ashram School,
Waghadi, Tq. Shirpur,
Dist. Dhule

13.Savitabai Bhivsan Bari,
Age 52 years, Occ. Service,
r/o. Primary Ashram School,
Asali, Tq. Shirpur,
Dist. Dhule

..Petitioners

Vs.

1. The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32
2. The Additional Commissioner,
Tribal Development Department,
Nashik Division, Nashik,
Old Mumbai – Agra Road,
Gadkari Chowk, Nashik
3. The Project Officer,
Integrated Tribal Development
Department, Dhule, Tq. and Dist.Dhule

4. Madhyamik Ashram School,
Waghadi, Tq. Shirpur,
Dist. Dhule,
Through its Headmaster
5. R.C.Patel Madhyamik Ashram
School, Shirpur, Tq. Shirpur,
Dist. Dhule,
Through its Headmaster
6. Primary Ashram School,
Tq. Shirpur, Dist. Dhule
Through its Headmaster
7. Primary Ashram School,
Waghadi, Tq. Shirpur,
Dist. Dhule
Through its Headmaster
8. Primary Ashram School,
Asali, Tq. Shirpur,
Dist. Dhule
Through its Headmaster ..Respondents

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Mr.A.D.Pawar, Advocate for petitioners

Mr.K.D.Mundhe, AGP for respondent nos.1 to 3

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : DECEMBER 13, 2016**

ORAL JUDGMENT (Per: R.M. Borde, J.)

Heard.

2. Rule. With the consent of the parties, petition is taken up for final hearing at admission stage.

3. The petitioners are praying for directions to the respondents to grant higher pay scales as well as benefits of Assured Career Progress Scheme (ACP scheme), since they have completed 12 years services from the date of their initial appointments and the Government Resolution dated 30.4.1998 entitles them to receive such benefits.

4. The respondents authorities have refused to scrutinise their proposals, contending that the scheme does not apply to the employees of Ashram Schools. The reason recorded by the respondents for their refusal to scrutinise the cases of the petitioners is not sustainable in view of the Judgment delivered by this Court in **Writ Petition No.7256 of 2011 and other companion matters (Sunil Tukaram Ukande & others V/s State of Maharashtra)**

decided on 2.12.2013. In para No.5 of the Judgment, the Division Bench of this Court has observed thus:-

"5. The issue raised in the petitions 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 Sept., 21st, 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 enable the eligible employees to be placed in higher pay scale. The eligible non-teaching staff of the aided Secondary Schools in Group 'C' and 'D' category gets the benefits 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 Article 14 and 16 of the Constitution of India."

5. In view of above, the petition deserves to be allowed and the same is accordingly allowed.

6. The respondents are directed to examine cases of each of the individual petitioners for deciding, whether they satisfy the criteria laid down for claiming benefits under ACPS, applicable to the private aided schools under the Government Resolution dated 30.4.1998 and as modified from time to time and if it is found that, the petitioners satisfy the eligibility criteria, the respondents shall extend the benefits to the petitioners. The respondents shall scrutinise the cases of each petitioner within a period of six

months from today and extend the benefits to such of eligible petitioners, as expeditiously as possible and preferably, within a period of four months from the date of scrutiny of the proposals.

7. Rule is made absolute in above terms.

8. Writ petition stands disposed of.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

kbp