

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2944 OF 2016

- 1 Prakash S/o Shankarrao Pawar,
age: 43 years, occu: service,
- 2 Sanjay S/o Sahebrao Likhe
age: 46 years, occu: service,
- 3 Raosaheb S/o Shivram Bhalerao
age: 49 years, occu: service,
- 4 Santosh S/o Jankiram Magar,
age: 45 years, occu: service,
- 5 Siraj Khan S/o Shabbeer Khan Pathan
age: 39 years, oucc: service,

All R/o Jay Durga Post Basic Adiwashi
Ashram School, Sakhartala Road,
Jintoor, Tq. Jintoor, Dist. Parbhani

Petitioners

Versus

- 1 The State of Maharashtra,
(through: Its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 32)
- 2 The Commissioner,
Tribal Development, Nashik.
- 3 The Additional Commissioner,
Tribal Development, Amravati
- 4 The Project Officer,
Integrated Tribal Development Project,
Kalamnuri, Dist. Hingoli

Respondents

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Mr. Vijay A. Dhakne, advocate for the petitioners.

Mr.S.B. Pulkundwar, Assistant Government Pleader for Respondents

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CORAM : R.M. BORDE, & P.R. BORA, JJ

Date : 18th MARCH, 2016.

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

1 Heard.

2 Rule. With the consent of the parties, petition is taken up for final decision, 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 respondent authorities have refused to scrutinize 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 scrutinize 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. Respondents shall scrutinize 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.

(P.R. BORA, J)

(R.M.BORDE, J)