

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4397 OF 2016

Santosh s/o Natthuji Wazulkar,
Age : 36 years, Occu. Service,
R/o Chondi Phata, Tq. Sengaon,
District Hingoli and five others

PETITIONERS

VERSUS

The State of Maharashtra
and four others

RESPONDENTS

AND

WRIT PETITION NO. 4400 OF 2016

Shivaji s/o namdeo Taponkar,
Age : 39 years, Occu. Service,
R/o Chondi Phata, Tq. Sengaon,
District Hingoli and three others

PETITIONERS

VERSUS

The State of Maharashtra
and four others

RESPONDENTS

Mr. Vijay A. Dhakne, Advocate for the Petitioners
in both writ petitions

Mr. S.D. Kaldate, A.G.P. for the respondents
in both writ petitions

CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.

DATE : 20th JUNE, 2016

PER COURT :

Heard.

2. Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, these petitions are taken up for final hearing at admission stage.

3. The petitioners are the employees of private aided Ashram Schools. The petitioners are claiming their entitlement to higher pay scale under Assured Career Progress Scheme (for short '**the ACPS**') on completion of 12 years of qualifying service from the respective dates of their initial appointments.

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

5. The issue raised in the petition is no more *res-integra* in view of the judgment of the Division Bench delivered at the Principal Seat of the Bombay High Court in Writ Petition No.2358/2013 and other companion matters decided on 21st 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 the 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."

6. In view of the decision rendered by the Division Bench, referred to above, the present petitions deserve to be allowed, and those are accordingly allowed.

7. The respondents are directed to examine the case of each individual petitioner for deciding whether they

satisfy the criteria laid down for claiming benefits under the ACPS to the private aided schools under the Government Resolution dated 30th April 1998, as modified from time to time, and if it is found that the petitioners are entitled to claim benefits under the ACPS and if they satisfy the eligibility criteria, the respondents shall extend the benefits to the petitioners. The respondents shall scrutinize the case of individual petitioner within a period of six months and extend the benefits to such of the petitioners who are found eligible, as expeditiously as possible, preferably, within a period of six months from such scrutiny.

8. Rule is made absolute in the above terms. Both the writ petitions stand disposed of accordingly.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

