

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5188 OF 2016

Balkrushna s/o Gopal Dudhkawade,
Age : 41 years, Occu. Service,
R/o Manganali, Tq. Kandhar,
District Nanded

PETITIONER

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
5. The Project Officer,
Integrated Tribal Development
Project, Kinwat, Dist. Nanded
6. The Project Officer,
Integrated Tribal Development
Project, Akola, District Akola

RESPONDENTS

Mr. Vijay A. Dhakne, Advocate for the Petitioner
Mr. V.H. Dighe, A.G.P. for the respondents

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

DATE : 4th JULY, 2016

ORAL JUDGMENT (PER : S.S. SHINDE, J.) :

Heard.

2. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for parties.

3. This petition takes exception to the decision of the respondents, thereby denying the benefits of higher pay scale to the petitioner.

4. The learned Counsel for the Petitioner invited our attention to the unreported judgment of the Division Bench of the Bombay High Court at Principal Seat in the case of ***Kiran Namdeo Shinde and ors. Vs. The State of Maharashtra and ors.***, and connected petitions thereto, delivered on 21st September, 2013, and submits that, the High Court has given a declaration that, benefit of Assured Career Progress Scheme (for short 'the ACPS') which is applicable to the employees of Group 'C' and 'D' non teaching staff of the aided private Ashram schools in the State under the Government Resolution

dated 30th April, 1998, as modified from time to time, shall be available to the non teaching staff of the same category in the private aided Ashram Schools. Therefore, according to the learned Counsel for the Petitioner, once such declaration is there, same would apply even to the Group 'C' and 'D' employees working under the Tribal Development Department.

5. On the contrary, learned A.G.P. appearing for the respondents, vehemently opposed the prayer made in the petition, and submits that, concerned Department has issued instructions to all of the officers and relying upon the instructions issued by the Department in the Mantralaya, the respondents have refused to grant the benefits of higher pay scale to the petitioner.

6. We have heard learned Counsel appearing for the petitioner, learned A.G.P. appearing for respondents and with their able assistance, perused the contents of the petition, annexures thereto and the judgment delivered by this Court on 19th November, 2015 in the case of ***Shamrao s/o Manikrao Mohite Vs. The State of Maharashtra and others*** (Exhibit-C to the petition), in which the decision in the case of ***Kiran Namdeo Shinde and ors.***

(supra) is relied upon. It is not in dispute that even in the case of employees working under Group C and D from the Tribal Development Department, the High Court has issued directions to respondent no.1 to consider the cases of the employees working in Group C and D non teaching staff of the aided private schools, working under the Tribal Development Department, for the benefit of ACPS. In that view of the matter, the writ petition deserves to be allowed.

7. The respondents are directed to examine the case of the petitioner for deciding whether he satisfies the criteria laid down for claiming benefits under the ACPS to the private aided Government schools under the Government Resolution dated 30th April 1998, as modified from time to time, and if it is found that the petitioner is entitled to claim benefits under the Scheme, and he satisfies the eligibility criteria, the respondents shall extend the benefits to the petitioner. The respondents shall scrutinize the case of the petitioner within a period of six months, and extend him the benefits as expeditiously as possible, and preferably within a period of four months from such

scrutiny.

8. Rule made absolute in above terms.

9. The writ petition stands disposed of in above terms.

Sd/-
[**SANGITRAO S. PATIL**]
JUDGE

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

npj/wp5188-2016