

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7297 OF 2015

Laxman s/o Digambar Madarse,
Age : 49 years, Occu. Service,
R/o Samta Nagar, Mubarakpur,
Nilanga, Tq. Nilanga, Dist. Latur

PETITIONER

VERSUS

1. The State of Maharashtra,
through Secretary,
Social Justice and Special
Help Department,
Mantralaya, Mumbai
2. The Director,
V.J.N.T., O.B.C. & S.B.C.
Special Help Department,
Maharashtra State, Pune
3. The Divisional Deputy Commissioner,
Social Welfare, Latur Division,
Latur
4. The Assistant Commissioner,
Social Welfare Department,
Latur
5. The Headmaster,
Venutai Yashvantao Chavan
Prathamik Ashram Shala,
Nilanga, Tq. Nilanga,
District Latur

RESPONDENTS

Mr. Ajay D. Pawar, Advocate for the petitioner
Mrs. M.A. Deshpande, A.G.P. for respondent Nos. 1 to 4
None for respondent No. 5, though served

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

DATE : 22nd JULY, 2016

PER COURT :

Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, heard finally.

2. The petitioner is an employee of aided private Ashram School – respondent No. 4. The petitioner, by this petition, is claiming his entitlement to higher pay scale under Assured Career Progress Scheme (for the “the ACPS”) on completion of 12 years of qualifying service from the date of his initial appointment.

4. It is the contention of the petitioner that the employees serving in private aided Ashram Schools are discriminated, and have been denied benefits whereas, the benefits are made available to 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 judgment of the Division Bench at Principal Seat of the Bombay High Court in **Writ Petition No. 2358/2013** and other companion matters **decided on September 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 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 benefits 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, as referred to above, the present

petition deserves to be allowed and the same is accordingly allowed.

7. The respondents in these petitions are directed to examine the case of the petitioner for decision whether he satisfies the criterion 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 criterion, 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 the benefits to the petitioner, if found eligible, as expeditiously as possible and preferably within a period of four months from such scrutiny.

8. Rule made absolute in above terms. The writ petition stands disposed of accordingly.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

