

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9866 OF 2015

Shankar Bhaurao Atram,
Age-41 years, Occu-Service,
R/o Palam, Tq.Palam, Dist.Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra,
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

Mr.V.A.Dhakne, Advocate for the petitioner.
Mr.D.R.Kale, AGP for the respondent/State.

(CORAM : S.S. SHINDE AND
RAVINDRA V. GHUGE, JJ.)

DATE : 20/01/2016

ORAL JUDGMENT : (Per S.S.Shinde, J.)

1. Heard the learned counsel appearing for the petitioner and learned AGP appearing for the State.
2. Order dated 11/12/2015 stands recalled. The respondents need not deposit the amount of costs.

3. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsels for the parties.

4. The petitioner has set out his prayers in the petition as under :-

“A) The writ petition may kindly be allowed.

B) To direct the respondents to grant the higher pay scale to the petitioner under Assured Career Progress Scheme on account of completion of 12 years of service with effect from 01/07/2008, by issuing a writ of mandamus or any other appropriate writ, order or direction as the case may be.

C) To direct the respondent Nos. 2 to 4 to consider the claim of the petitioner for granting the higher pay scale under Assured Career Progress Scheme in the light of the Judgment dated 21/09/2013 passed by the Division Bench of this Hon'ble Court in Writ Petition No.2358/2013 and other connected matters, pending hearing and final disposal of this petition.”

5. 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 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.

6. 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 the officers and relying upon the instructions issued by the Department in the Mantralaya, the Additional Commissioner, Tribal Development, Amravati, has passed the impugned order.

7. We have heard learned Counsel appearing for the petitioner, learned A.G.P. appearing for respondents and with their able assistance, perused the impugned letter, contents of the petition, annexures thereto and the judgment in the case of Kiran Namdeo Shinde and ors. Vs. The State of Maharashtra and ors. (supra). 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.

8. 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 cases of the petitioner within a period of six months, and if entitled, extend him the benefits as expeditiously as possible, and preferably within a period of four months from such scrutiny.

9. The writ petition stands allowed. Rule made absolute in above terms.

(RAVINDRA V. GHUGE, J.)

(S.S. SHINDE, J.)