

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12241 OF 2016

1. Vinod s/o. Marotrao Surdase
Age : 42 years, Occ. Service,

2. Devanand s/o. Ramdas Ughade,
Age : 31 years, Occ. Service,

Both r/o. Bhokar, Tq. Bhokar,
Dist. Nanded

..Petitioners

Vs.

1. The State of Maharashtra,
Through 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, Kinwat,
Dist. Nanded

..Respondents

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Mr.V.A.Dhakne, Advocate for petitioners

Mr.K.D.Mundhe, AGP for respondents

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : DECEMBER 13, 2016**

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

Heard.

2. Rule. With the consent of the parties, petition is taken up for final hearing 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 respondents authorities have refused to scrutinise 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 scrutinise 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. The respondents shall scrutinise 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.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

kbp