

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14311 OF 2017

1. Pramod Dattatraya Patil,
Age: 47 Years, Occu.: Service,
2. Suresh Dullabh Patil,
Age: 47 Years, Occu.: Service,
3. Ramesh Ananda Bhil,
Age: 49 Years, Occu.: Service,
4. Sakharam Laxman Chavan,
Age: 45 Years, Occu.: Service,
5. Sudam Sahadeo Nerkar,
Age: 47 Years, Occu.: Service,
6. Bebibai Ukha Khairnar,
Age: 53 Years, Occu.: Service,
7. Deopuri Shivpuri Bawa,
Age: 37 Years, Occu.: Service,

All R/o. Nimzari -Waghadi, Shirpur,
Tq.: Shirpur, Dist.: Dhule

.. **Petitioners**

Versus

1. The State of Maharashtra,
Through Secretary, Tribal Development
Department, Mantralaya, Mumbai-32
2. The Additional Commissioner,
Tribal Development Department
Nashik Division, Nashik,

Old Mumbai-Agra Road,
Gadkari Chowk, Nashik

3. The Project Officer,
Integrated Tribal Development
Department, Dhule, Tq. An Dist.: Dhule .. **Respondents**

WITH
WRIT PETITION NO. 14979 OF 2017

1. Vijay Motiram Halor,
Age: 41 Years, Occu.: Service,
2. Meera Sukhdev Pardeshi,
Age: 48 Years, Occu.: Service,
3. Smt. Sunanda Namdev Bagul,
Age: 44 Years, Occu.: Service,
4. Smt. Saraswati Goma Jagtap,
Age: 33 Years, Occu.: Service,
5. Dharmraj Namdev Bagul,
Age: 33 Years, Occu.: Service,

Petitioner Nos. 1 to 5 are R/o. Anudanit
Prarthamik Ashram School,
Udane, Tq. and Dist.: Dhule.

6. Surekha Bhaidas More,
Age: 40 Years, Occu.: Service,
7. Smt. Hirabaio Nirantar Bhamare,
Age: 47 Years, Occu.: Service,
8. Suresh Waru Ahire,
Age: 43 Years, Occu.: Service,
9. Kalidas Furna Walavi,

Age: 41 Years, Occu.: Service,

10. Lalesh Madhukar Sonawane,
Age: 36 Years, Occu.: Service,

Petitioner Nos. 6 to 10 R/o. At post
Anudanit Prarthamik Ashram School Mhasdi,
Tq.: Sakri, Dist.: Dhule

11. Sau. Sangita Jagannath Dhangar,
Age: 45 Years, Occu.: Service,
R/o. At Varsus, Post Runmali, Tq. : Sakri,
Dist.: Dhule

12. Dilip Popat Patil,
Age: 40 Years, Occu.: Service,

13. Smt. Bhatabai Daulta Ahire,
Age: 41 Years, Occu.: Service,

14. Smt. Alka Vasant Sonawane,
Age: 47 Years, Occu.: Service,

15. Bhaskar Diwangir Bawa,
Age: 47 Years, Occu.: Service,

16. Bhatu Yashwant Patil,
Age: 42 Years, Occu.: Service,

17. Smt. Sarla Bapu Bhil,
Age: 33 Years, Occu.: Service,

Petitioner Nos. 12 to 17 are R/o. Anudanit
Prarthamik Ashram School, Nandare,
Tq.: and Dist.: Dhule

.. **Petitioners**

Versus

1. The State of Maharashtra,

Through Secretary, Tribal Development
Department, Mantralaya, Mumbai-32

2. The Additional Commissioner,
Tribal Development Department
Nashik Division, Nashik
Old Mumbai-Agra Road,
Gadkari Chowk, Nashik
3. The Project Officer,
Integrated Tribal Development
Department, Dhule, Tq. and Dist.: Dhule.. **Respondents**

Shri A. D. Pawar, Advocate for the Petitioners.

Shri C. S. Kulkarni, A.G.P. for Respondent / State.

CORAM : **S. V. GANGAPURWALA &**
V. L. ACHLIYA, JJ.

DATE : **20th December, 2017**

ORAL JUDGMENT (Per: S. V. Gangapurwala, J.):

1. 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 petitions deserves to be allowed and the same are 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 petitions stand disposed of.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

marathe/Dec.17