

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1626 OF 2018

Narendrasing Bhimsing Rajput,
Age: 54 Years, Occu.: Service,
R/o.: Secondary Ashram School,
Nimzari, Tq.: Shirpur, Dist: Dhule

.. Petitioner

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

Mr. C. T. Jadhav h/f. Mr. Ajay D. Pawar, Advocate
for the Petitioner.

Mrs. P. V. Diggikar, A.G.P. for Respondents No. 1
& 2.

Respondent No. 3 – served.

CORAM: S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.

DATE: 24th JANUARY, 2019

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

1. Heard.

2. Rule. With the consent of parties, petition is taken up for final hearing at admission stage.

3. The petitioner is praying for directions to the respondents to grant higher pay scale as well as benefits of Assured Career Progress Scheme (ACP scheme), since he has completed 12 years services from the date of his initial appointment and the Government Resolution dated 30.04.1998 entitles him to receive such benefits.

4. The respondents / authorities have refused to scrutinise his proposal, 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 case of the petitioner 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 the view of above, the petition deserves to be allowed and the same is accordingly allowed.

6. The respondents are directed to examine case of the petitioner for deciding, whether he satisfies the criteria laid down for claiming benefits under ACPS, applicable to the private aided schools under the Government Resolution dated 30.04.1998 and as modified from time to time and if it is found that, the petitioner satisfies the eligibility criteria, the respondents shall extend the benefits to the petitioner. The respondents shall scrutinise the case of the petitioner within a period of six months from today and extend the benefits, if eligible, to the petitioner as expeditiously as possible and

preferably within a period of four months from the date of scrutiny of the proposal.

7. Rule is made absolute in above terms.

8. Writ petition stands disposed of. No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

marathe