

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.12253 OF 2019**

Ramesh s/o Arjunrao Kendre,
age: 51 years, Occ: Helper,
R/o at Omardara, Tq.Jalkot,
District Latur.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
Social Welfare Department,
Maharashtra State,
Mantralaya, Mumbai-32.

02 The Director,
V.J.N.T., OBC & SBC
Special Assistance Department,
Maharashtra State,
Pune.

03 The Regional Deputy Commissioner,
Social Welfare, Latur Division,
Latur.

04 The Assistant Commissioner,
Social Welfare Department,
Latur.

05 Shriram Primary Ashram School,
At Omardara, Tq. Jalkot,
District Latur.

Respondents

Mr.Kuldeep S. Patil, advocate for the petitioner.
Mr.S.B.Yawalkar, AGP for Respondents No.1 to 4.

**CORAM : S.V.GANGAPURWALA &
ANIL S. KILOR, JJ.**

DATE : 07th October, 2019

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

1 Heard.

2 Rule. Rule made returnable forthwith and heard finally by consent of the parties. The petition is taken up for final disposal at admission stage.

3 The petitioner is the employee of aided private Ashram School and is claiming entitlement to higher pay scale under Assured Career Progress Scheme (for short, 'the ACPS') on completion of 12 years of qualifying service, from the date his initial appointment.

4 It is the contention of the petitioner that the employee serving in private aided Ashram School is discriminated and has been denied benefits, whereas, the benefits are made available to the Ashram Schools conducted by the Social Welfare Department, and other private aided schools conducted by other Departments.

5 The issue raised in the petitions is no more res integra in view of the judgment of the Division Bench of this Court at the Principal Seat 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 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 Articles 14 and 16 of the Constitution of India.”

6 In view of the decision rendered by the Division Bench, as referred to above, instant petition deserves to be allowed, and the same is accordingly allowed.

7 The respondents are directed to examine the case of the petitioner for deciding whether he satisfy the criteria laid down for claiming benefits under the ACPS to the Government aided private Ashram 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 satisfy the eligibility criteria, 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, preferably within a period of four months from such scrutiny.

8 Writ Petition stands disposed of in above terms. Rule
is made absolute accordingly.

ANIL S. KILOR
JUDGE

S.V.GANGAPURWALA
JUDGE

dyb