

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

958 WRIT PETITION NO.3955 OF 2020

1. Yogeshkumar s/o Mitharam Patil,
Age : 42 years, Occu. : Service,
2. Vijay s/o Gulabrao Patil,
Age : 46 years, Occu. : Service,
3. Kalyanrao s/o Wamanrao Patil,
Age : 54 years, Occu. : Service,
4. Mangalabai Govinda Patil,
Age : 45 years, Occu. : Service,
5. Vikas s/o Sitaram Patil,
Age : 42 years, Occu. : Service,
6. Pawankumar s/o Harchand Landge,
Age : 34 years, Occu. : Service,

All the petitioners are,

R/o : Tadeपुरa, Tq. Amalner,

Dist. Jalgaon.

. . . . **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, Yawal, Tq. Yawal,
Dist. Jalgaon.

. . . . RESPONDENTS

Advocate for Petitioners : Mr.Ajay D. Pawar
A.G.P. for Respondents/State : Mr.K.N.Lokhande

**CORAM : S.V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**
DATE : 12/03/2020.

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 petitioners are praying for directions to the respondents to grant higher pay scale as well as benefits of Assured Career Progress Scheme (ACP Scheme), since they have completed 12 years services from the date of their initial appointment and the

Government Resolution dated 30/04/1998 entitles them to receive such benefits.

4. The respondents/authorities have refused to scrutinize their proposal, contending that the scheme does not apply to the employees of Ashram Schools. The reason recorded by the respondents for their refusal to scrutinize the case 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 & Ors. Vs. State of Maharashtra), decided on 02/12/2013. In Para No.5 of the judgment, the Division Bench of this court has observed thus:

"5. The issue raised in the petition is no more res integra in view of judgment of the Division Bench at Principal Seat in Writ Petition No.2538/2013 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 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 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 case of the 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 30/04/1998 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 scrutinize the case of the petitioners 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 is disposed of. No costs."

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE