

907. WRIT PETITION NO.5802 OF 2021

1. Vijaykumar s/o. Vasant Rane,
Age 41 years, Occu. : Service.
2. Anupama Pralhad Bharate,
Age 40 Years, Occu : Service,
3. Vinod s/o. Arjun Ghogare,
Age: 40 Years, Occu. Service.
4. Padmakar s/o. Vasant Mahajan,
Age: 44 Years, Occu : Service.
5. Madhuri Sudhakar Chaudhari,
Age : 38 Years, Occu : Service,
Petitioner no. 1 to 5 are,
R/o. Late Ganpatrao Khadase Ashram
School Kothali, Tq.Muktainagar,
Dist. Jalgaon.
6. Rekha Prabhakar Patil,
Age: 50 years, Occu : Service,
R/o. Primary Ashram School Rasalpur,
Tq. Raver, Dist. Jalgaon.
7. Rajendra s/o. Prabhakar Kachole,
Age: 36 Years, Occu. Service,
8. Sushila Laxman Pawara,
Age: 37 Years, Occu. : Service,
Petitioner no. 7 and 8 are
R/o : Madhyamik Ashram School Jamnya-
Gadrya, Tq. Yawal, Dist. Jalgaon.
9. Magan Jagan Deore,
Age: 55 Years, Occu : Retire,
R/o : Chatrasel, Tq. Chopda,
Dist. Jalgaon.

VERSUS

1. The State of Maharashtra
Through Secretary, Tribal
Development Department,
Mantralay, Mumbai-32.

(Copy to be served on G.P.
High Court of Bombay Bench
at Aurangabad)

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**

...
Mr.Ajay D. Pawar, Advocate for the
petitioners
Mr.S.P.Tiwari, AGP for the respondent-State.

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WITH**933. WRIT PETITION NO.5850 OF 2021**

1. Dattatray Bapu Raut,
Age: 37 years, Occu : Service,
2. Chanda Deoram Vairagar,
Age: 46 years, Occu : Service
Both the petitioners are
R/o. Shri Baneshwar Ashram School,
Burhannagar, Tq. and Dist.
Ahemadnagar.

..**PETITIONERS**

VERSUS

1. The State of Maharashtra,
Through Secretary,
Other Backward Bahujan Welfare
Department, Mantralaya,
Mumbai-32.

(Copy to be served on Govt.
Pleader, High Court of Bombay,
Bench at Aurangabad)

2. The Director,
Other Backward Bahujan Welfare,
Maharashtra State, Pune.
3. The Divisional Deputy Commissioner,
Social Welfare, Nashik Division,
Nashik.
4. Assistant Commissioner,
Social Welfare, Ahemadnagar,
Dist. Ahemadnagar.

..**RESPONDENTS**

Mr.Ajay D. Pawar, ... Advocate for the
petitioners.
Mr.K.N.Lokhande, AGP for the respondent-
State.

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WITH

953. WRIT PETITION NO.5872 OF 2021

1. Vaishali Shaligram Ambhore,
Age: 48 years, Occu:Service,
R/o. Madhyamik Ashram School,
Pundalik Nagar Jatwada,
Tq. and Dist. Aurangabad.
2. Sandip Ukhurdu Chinchpure,
Age: 33 Years, Occu : Service.

3. Narayan Khandu Kaatkar
Age: 38 Years, Occu : Service,
Petitioner nos. 3 and 4 are
R/o. Primary Ashram School,
Pundalik Nagar Jatwada,
Tq. and Dist. Aurangabad.
4. Dhrupata Sakharam Shinde,
Age : 42 Years, Occu : Service,
R/o. Primary Ashram School,
Anjandoh, Tq. and Dist. Aurangabad.
5. Badrinath Govind Jadhav,
Age: 36 Years, Occu : Service,
R/o. Primary Ashram School,
Brahmani Garada, Tq. Kannad,
Dist. Aurangabad.
6. Manika Shantaram Choudam,
Age: 37 Years, Occu : Service,
R/o Primary Ashram School,
Siradhon, Tq. Kandhar, Dist. Nanded.
7. Pradipsing Ganeshsing Rajput,
Age: 47 Years, Occu : Service,
R/o Primary Ashram School,
Himayat Nagar, Tq. Himayat Nagar,
Dist. Nanded.
8. Appasaheb Laxman Pawar,
Age: 48 years, Occu : Service,
R/o. Primary Ashram School,
Dhawalpuri, Tq. Parner, Dist. Ahemadnagar
9. Sandip Devidas Patil,
Age: 37 Years, Service,
R/o. Primary Ashram School Ranaiche,
Tq. Amalner, Dist. Jalgaon.
10. Dagadu Rasal Pawar,
Age: 47 Year, Occu : Service,

R/o. Primary Ashram School,
Kurha-Kakoda, Tq.Muktainagar,
Dist. Jalgaon.

11. Mangala Jayram Dhangar,
Age: 52 years, Occu : Service,
R/o. Madhyamik Ashram School,
Dondaicha, Tq. Shindkheda,
Dist. Dhule.

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Secretary,
Other Backward Bahujan Welfare
Department, Mantralaya,
Mumbai-32.

(Copy to be served on Govt.
Pleader, High Court of Bombay
Bench at Aurangabad)

2. The Director,
Other Backward Bahujan Welfare,
Maharashtra State, Pune.
3. The Divisional Deputy Commissioner,
Social Welfare, Aurangabad Division,
Aurangabad.
4. The Divisional Deputy Commissioner,
Social Welfare, Latur Division,
Latur.
5. The Divisional Deputy Commissioner,
Social Welfare, Nashik Division,
Nashik.
6. Assistant Commissioner,
Social Welfare, Aurangabad,
Dist. Aurangabad.

7. Assistant Commissioner,
Social Welfare, Nanded,
Dist. Nanded.
8. Assistant Commissioner,
Social Welfare, Ahemadnagar,
Dist. Ahemadnagar.
9. Assistant Commissioner,
Social Welfare, Jalgaon,
Dist. Jalgaon.
10. Assistant Commissioner,
Social Welfare, Dhule,
Dist. Dhule.

..RESPONDENTS

Mr.Ajay D. Pawar, ... Advocate for the
petitioners.
Mr.S.P.Tiwari, AGP for the respondent-State.

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**CORAM: S.V.GANGAPURWALA &
SHRIKANT D.KULKARNI,JJ.
DATE : 06.04.2021.**

ORAL JUDGMENT : [Per : S.V.Gangapurwala, J.]

1] Heard.

2] Rule. With the consent of parties,
petitions are 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 petitions deserve to be allowed and the same are 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 Petitions are disposed of. No costs.

[SHRIKANT D.KULKARNI,J.] [S.V.GANGAPURWALA,J.]

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