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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 178 OF 2019

Ramhari Tribak Aatkare and Ors.

... Petitioners

Versus

The Assistant Commissioner, Solpur and Ors.

... Respondents

Mr. Jagdish G. Aradwad (Reddy) for the Petitioners.

Mrs. P. J. Gavhane, AGP for the State-Respondent Nos. 1 to 4.

**CORAM: R. D. DHANUKA AND
R. N. LADDHA, JJ.**

DATE : 13th DECEMBER, 2021.

P.C. :-

1. Mr. Aradwad, learned counsel for the petitioners seeks liberty to delete respondent nos. 5 to 8 from the cause title of the petition. Leave to amend is granted as prayed. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Mrs. Gavhane, learned AGP for the respondent nos. 1 to 4 waives service. By consent of parties, petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of certiorari for quashing and setting aside the impugned orders dated 21st August, 2018 and 14th September, 2018 thereby rejecting the proposal for grant of financial upgradation benefit under ACP Scheme to the petitioners on the purported ground that the Government of Maharashtra has not issued

any Government Resolution for granting the said financial upgradation benefit to the employees working in Category-IV in Ashram Schools and for other reliefs. The petitioners are working on different posts in groups C and D (Class IV) in the various schools run by respondents nos. 5 to 8.

4. On 2nd September, 1989, the Government of Maharashtra issued Government Resolution thereby granting benefit of ACP Scheme to the non-teaching staff of private aided schools. The Director, VJNT, OBC and SBC, Government of Maharashtra directed all the Regional Deputy Commissioners or Social Welfare Departments to extend the benefit of ACP Scheme to all the employees working with the Ashram Schools so as to avoid the contempt proceedings. The Assistant Commissioner however vide order dated 21st August, 2018 and 14th September, 2018 rejected the proposal for grant of financial upgradation benefit under ACP Scheme to the petitioners. On 26th September, 2018, the petitioner made representation to the Assistant Commissioner. There is no response by the respondents to the said representation made by the petitioners.

5. Leaned counsel for the petitioner invited our attention to the judgment of this Court delivered on 21st September, 2013 in case of ***Kiran Namdeo Shinde and Ors. v/s. The State of Maharashtra and Ors.*** and other companion matters and would submit that in identical matter, this Court has declared that the benefits of ACPS which are applicable to group C and D non-teaching staff of the aided schools under the Government Resolution dated 30th April, 1998 as modified

from time to time shall be available to the non-teaching staff of the same category in private aided Ashram schools. He submits that the said judgment would squarely apply to the facts of this case. Learned AGP could not distinguish this judgment delivered by the Division Bench of this Court. We have perused the judgment delivered by this Court and are of the opinion of the said judgment would squarely apply to the facts of this case. The petitioners in this case are also non-teaching staff of the group C and D category working in private aided Ashram schools.

6. In our view, the orders passed by the respondent nos. 1 to 4 are contrary to the principles of law laid down by this Court in the said judgment in case of ***Kiran Namdeo Shinde and Ors.*** (supra) and are thus quashed and set aside. In our view, the petitioners are entitled to benefit of ACPS which are applicable to the employees of group C and D non-teaching staff of the aided private Ashram vide Government Resolution dated 30th April, 1998.

7. We accordingly pass the following order :-

- (a) We declare that the benefit of ACPS, which is applicable to the employees of Group C and D non-teaching staff of the aided Private Schools in the State under the Government Resolution dated 30th April, 1998 as modified from time to time shall be available to the non-teaching staff of same category in the private aided Ashram Schools.

- (ii) The appropriate Authority appointed by the State Government shall examine the individual cases of the petitioners for deciding whether they satisfy the criteria laid down for availability of the benefit of ACPS to the private aided Government Schools under the Government Resolution dated 30th April, 1998 as modified from time to time.
- (iii) We make it clear that the petitioners will be entitled to the benefit of the said scheme, provided they satisfy the eligibility criteria which is prescribed for the corresponding non-teaching staff of the private aided schools.
- (iv) We grant time of six months to the respondents to scrutinize the cases of the petitioners and to consider whether they are eligible to the benefit of ACPS.
- (v) To those petitioners who are found eligible, the benefit shall be extended, as expeditiously as possible.
- (vi) Petition is disposed of in aforesaid terms. Rule is made absolute accordingly. There shall be no order to costs.
- (vii) Parties to act on an authenticated copy of this order.

[R. N. LADDHA, J.]

[R. D. DHANUKA, J.]