

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 333 OF 2020

Prakash s/o Somanna Gawade and others -- Petitioners
vs.
The State of Maharashtra and others -- Respondents

Mr. R. N. Ghuge, Advocate for the Petitioners.
Mr. A. A. Madiwale, AGP for the Respondent Nos.1 to 3.

CORAM : NITIN JAMDAR &
ANIL S. KILOR, JJ.

DATED : 21 JANUARY 2021

P. C. :

The Petitioners are working on various posts in Group 'C' and Group 'D' in private aided Ashram Schools in Chandrapur District. The Petitioners have sought benefits of the Assured Career Progress Scheme for time bound promotions to grant of higher pay etc.

2. The Petitioners have relied upon decision rendered in Writ Petition No.2358 of 2013 and others, dated 21 September 2013 passed by the Division Bench of Principal Seat, wherein the Division Bench held that if the policy of Assured Career Progress Scheme is made applicable to Group 'C' and Group-'D' non-

teaching staff in private aided Schools, it will be discriminatory if it is not extended to the Group 'C' and Group 'D' non-teaching staff of aided Ashram Schools. The Division Bench after declaring the law directed that case of each employee will have to be examined whether they have satisfied the eligibility criteria and then if found eligible extend the benefits.

3. The Division Bench observed thus,

“20. As we have already noted that there is already a Government Resolution and a Policy which grants the benefit of ACPS to non-teaching staff of the aided Private Schools, the petitioners who are claiming benefit on the basis of parity will have to satisfy the criteria laid down by the policy which governs the cases of the similarly placed non-teaching staff of the private aided Schools. Though, we are holding that non-teaching staff in Group 'C' and 'D' posts in aided private Ashram Schools will be entitled to the benefit of ACPS, which is already extended to the non-teaching staff of the aided Private Schools, the question whether individual petitioners satisfy the requirements incorporated in the Government Policy applicable to non-teaching staff of private government aided schools will have to be left to be decided by the appropriate Authorities.

21. Hence, we dispose of the petitions, by passing the following order :-

(i) 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 the 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 for the benefit of ACPS;

(v) To those petitioners who are found eligible, the benefit shall be extended, as expeditiously as possible;

(vi) Petitions are disposed of on above terms.”

4. On 17 January 2020, the notice was issued and the following order was passed :-

“Heard

Issue notice for final disposal of the matter returnable on 31.01.2020.

Mr. N. R. Patil, learned Assistant Government Pleader waives service of notice for respondent nos.1 to 3.

It is urged that the case of petitioner is fully covered by the decision of this Court in Writ Petition No.2358 of 2013 and Others filed at Annexure-B with this petition.

We, therefore, direct respondent no.3 to take a decision on the basis of the Judgment delivered by this Court (supra) and file an affidavit to that effect.”

5. The learned Assistant Government Pleader states that written instructions have been received that action as per the decision rendered in Writ Petition No.2358 of 2013, as referred in Writ Petition No.3331 of 2020 will be taken. Even otherwise, nothing is shown as to why a contrary view be taken or that the decision rendered in Writ Petition No.2358 of 2013 is not applicable.

6. Accordingly, we dispose of the Petition directing the Respondents to scrutinize the case of the Petitioners, consider whether they are eligible for the benefit of the Assured Career Progress Scheme as per the norms laid down in the fact that the Government Resolution dated 30 April 1998, as modified from

time to time and communicate the decision to the Petitioners within a period of six months from today.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]