

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

84 WRIT PETITION NO.2883 OF 2022

RANGNATH PARSHURAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Advocate for the petitioner : Mr.B.B.Dahiphale
AGP for Respondent-State : Mr.A.R.Kale

...
**CORAM : S.V.GANGAPURWALA &
S.G.DIGE, JJ.**

DATE : 28.02.2022

P.C. :

1] Heard.

2] The petitioner is the employee of aided private Ashram School. The petitioner is claiming his 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 of his initial appointment.

3] It is the contention of the petitioner that the employees serving in the private aided Ashram Schools are discriminated, and have 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.

4] The issue raised in the petition is no more res integra in view of the judgment of the Division Bench at Principal Seat in Writ Petition No.2358/2013 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 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 benefit 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.”

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

6] The respondents in this petition are directed to examine the case of the petitioner for deciding whether he satisfies the criteria laid down for claiming benefits under the ACPS to the private aided Government 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 satisfies the eligibility criteria, the respondents shall extend the benefits to the petitioner in this petition. The

respondents shall scrutinize the case of petitioner within a period of six months, and extend the benefits to such petitioner, who is found eligible, as expeditiously as possible preferably, within a period of four months from such scrutiny.

7] Writ Petition stands disposed of accordingly.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]

DDC