

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9244 OF 2022

SUJATA YUVRAJ ADE
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for Petitioner : Mr. Patil (Borse) Paresh B.
AGP for Respondents-State: Mr. S. G. Sangle
...

CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

DATE : 12th December, 2022

PER COURT :

1. The petitioner has put forth prayer clauses - (B) & (C) as under;

“(B) By appropriate Writ in the nature of Mandamus or any other Writ of like nature or by appropriate orders and directions, the Respondents may kindly be directed to declare that, the benefits of Assured Career Progress Scheme (in short ACPS), which is applicable to the employees of Group ‘C’ and ‘D’ non-teaching staff of the aided Private School in the State under the Government Resolution dated 30th April, 1998, as modified from the time to time applicable to the non-teaching staff of the same category in private aided Schools; for that purpose this Hon’ble Court may pass appropriate orders.

(C) By appropriate Writ of like nature or by appropriate orders and directions, the Respondents may kindly be directed to grant the benefits of Time Bound Promotional Pay Scales to the Petitioner post within period of two months under Assured Career Progress Scheme which is applicable to the employees of Group ‘C’ and ‘D’ non-teaching staff of the VJNT aided Private Schools under Government Resolution dated 30th April, 1998 as modified from time to time, on the ground of

the petitioner has been completed her 12 years qualifying services, from the date of her initial appointment; for that purpose this Hon'ble Court may pass necessary orders."

2. The petitioner is working in a private aided Ashram School. She claims to be entitled to the Assured Career Progress Scheme (ACPS), after 12 years on account of stagnation. In identical set of facts, this Court at the Principal Seat, in Writ Petition No.2358/2013 filed by Kiran Namdeo Shinde & Others Vs. The State of Maharashtra & Ors., has held in the judgment dated 21.09.2013, in Paragraph Nos.17 to 19 as under;

"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 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.”

3. In view of the above, this petition is partly allowed. We permit the respondents to examine the case of the petitioner for confirming whether she satisfies the criteria laid down for being entitled to the benefits of the ACPS applicable to private aided Government Schools under the Government Resolution dated 30.04.1998. If she is entitled to the said benefits, the Competent Authority would accordingly extend the said benefits. Let this exercise of verification and payment of benefits, if entitled to, be completed within a period of six months from today.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)