



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2986 OF 2024

PANDURANG BAPURAO MATAL AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND OTHERS

Mr. P. B. Jadhav, Advocate for the Petitioners

Mr. S. K. Tambe, AGP for the Respondent/State

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 18th MARCH, 2024

PER COURT :-

1. Respondent Nos.5 and 6 are formal parties. The petitioners pray for leave to delete respondent Nos.5 and 6. Deletion be carried out at the risk of the Petitioners.

2. The petitioners have put forth prayer clauses 'B', 'C' and 'D' as under:

"B. By issuing writ of mandamus or any other writ or direction in like nature that, by granting benefits of time bound promotion / A.C.P.S. may kindly be granted allowing this writ petition.

C. By issuing Writ of Mandamus or any other appropriate Writ, order in the like nature, the Respondent No.1 to 4 within a stipulated period of grant benefits of time bound promotion/ACPS along with consequential benefits in favour of petitioner as they have completed 12 years service from the date of their respective appointment as Non teaching staff in the respondent No.6 aided Ashram School.

D. By issuing writ of mandamus or any other writ or direction in like nature that, seeking to hold and declare that, the petitioners are entitled to get benefits of order dated 21.09.2013 passed by the Hon'ble Principal Seat of this Hon'ble Court in Writ Petition No. 2358/2013 and order dated 07.07.2016 passed by this Hon'ble Court in W.P. No. 4820/2016 passed in respect of granting time bound promotion/ACPS as per Government Resolution dated 30.04.1998 after completion of 12 years service of the petitioner from their date of appointment as Non Teaching Staff of respondent No.6 aided Ashram School."

3. Having considered the submissions of the learned Advocate for the respective sides, we have perused the order dated 21/09/2013, delivered by this Court at the Principal Seat, in ***Writ Petition No.2358/2013***, filed by ***Kiran Namdeo Shinde and others Vs. State of Maharashtra and the connected matters***. We deem it appropriate to reproduce paragraph Nos.17 to 21 of this Judgment, here 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.

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. The Division Bench of this Court at Aurangabad, placed reliance upon the above referred judgment in ***Writ Petition No.4820/2016***, filed by ***Vinod Shravan Patil and three others Vs. State of Maharashtra and others and connected matters***, and granted an identical relief to the said petitioners. The monetary benefits, after conducting a verification exercise, are to be paid within six months to the petitioners. The present petitioners are identically placed.

5. The learned A.G.P. submits that he would not argue against the law settled by this Court in ***Kiran Namdeo Shinde*** (supra) and followed in ***Vinod Shravan Patil*** (supra).

6. In view of the above, **this Writ Petition is allowed.** The respondents/authorities would be at liberty to examine the case of the petitioners for verifying as to whether, they satisfy the criteria laid down for claiming the A.C.P.S. benefits, after completing 12 years in the Private/Aided Ashram Schools, in the light of the Government Resolution dated 30/04/1998, with the modifications by succeeding Government Resolutions from time to time. After concluding the exercise of verification, the amounts, based on entitlements of the petitioners, would be paid within six months from today. In the event, the authorities arrive at a conclusion that, any petitioners are not entitled, a reasoned order would be passed and the same would be communicated to the petitioners, as expeditiously as possible and preferably within 21 days of the decision. Thereafter, the aggrieved party would be at liberty to challenge the said decision, by resorting to a remedy, as is permissible in law.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

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