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

70 WRIT PETITION NO. 3650 OF 2024

KAVITA KISAN BANGAR

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

....

Mr Ajinkya A. Reddy, Advocate for Petitioner;

Mr V. M. Kagne, A.G.P. for Respondents/State

CORAM : RAVINDRA V. GHUGE

AND

R. M. JOSHI, JJ.

DATE : 8th April, 2024

PER COURT:

1. The Petitioner has put forth prayer clauses (A) and (B), which read as under :-

“B) *To direct the Respondents to grant benefits of the time bound promotion/ ACPS in favour of petitioners immediately after completing 12 years of qualifying Service as non teaching staff of aided ashram school as per Government Resolution dated 30.04.1998 and to grant all consequential benefits that accrue to the petitioner by issuing writ of mandamus, order, directions or any other appropriate writ, as the case may be;*

C) *To hold and declared that the petitioner is eligible and entitled to get benefits as per order*

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dated 21.09.2013 passed in Writ Petition No.2358 of 2013.”

2. The issue raised by the Petitioner is no longer res-integra. By a judgment dated 21.09.2013, delivered by this Court [Coram : Abhay S. Oka (as His Lordship then was) and Revati Mohite Dere, JJ.] in Writ Petition No.2358/2003, filed by ***Kiran Namdeo Shinde and others Vs. State of Maharashtra and others*** and a group of matters at the Principal Seat, and further orders passed by this Court at Aurangabad, the claim of all such Petitioners have been accepted.

3. It would be appropriate for us to reproduce the directions issued by this Court in ***Kiran Namdeo Shinde (supra)*** in paragraph Nos.18 to 21, as under :-

“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

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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 nonteaching staff of the aided Private Schools, the question whether individual petitioners satisfy the requirements incorporated in the Government Policy applicable to nonteaching 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' nonteaching 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*

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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 learned A.G.P. representing the Respondents submit that, he cannot argue against the law and since there is a judicial pronouncement by this Court, the Authorities would scrutinize and examine the case of the Petitioner and after confirming that the Petitioner is eligible for the benefits of ACPS, such benefits would be extended to her. He further submit that, as the Petitioner has raised this issue belatedly, she would not be entitled for interest component.

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5. In the light of the above, **this Writ Petition is disposed off.** The directions set out in paragraph No.21 in *Kiran Namdeo Shinde (Supra)*, reproduced above, will be applicable to the case of the present Petitioner.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

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