

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD

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Office Notes, Office  
Memoranda of Coram,  
appearances, Court's  
orders or directions  
and Registrar's orders

Court's or Judge's orders

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**WRIT PETITION NO. 10718 OF 2017**

JYOTI NIVRUTIRAO KALE AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for Petitioners : Mr.Munde Sambhaji G.  
AGP for Respondent/State: Mr.R.V. Dasalkar.  
Advocate for Respondents : Mr.Bhavthankar V.V. For  
R.No.8, Mr.U.S. More for R.Nos.6 and 7.

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**CORAM : S.V.GANGAPURWALA & V.L. ACHLIYA, JJ.**  
**Dated: DECEMBER, 18, 2017**

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Mr.Munde, learned Advocate submits that the petitioners are appointed from Scheduled Caste and Scheduled Tribe categories on 27.02.2013 and 17.12.2013 as Shikshan Sevak after following due selection process. The appointments of the petitioners are also approved by the Education Officer. Subsequently, the impugned notice is issued. According to the learned Advocate, the Education Officer has no powers of review. The ban on recruitment does not apply to the persons appointed from reserved category.

2. We have also heard Mr.Bhavthankar, learned Advocate for respondent No.8 and Mr.More, learned Advocate for respondent

Nos.6 and 7.

3. It is true that the ban on recruitment would not apply to the appointments made from reserved category as has been held in various orders passed by this Court. However, in view of the impugned notice issued, the petitioners have also filed their say. It would be for the Education Officer to take decision. The petitioners may put up their defence before the Education Officer, which the Education Officer is required to consider while passing orders.

4. The petitioners shall appear before the Education Officer on 15<sup>th</sup> January, 2018. The Education Officer shall consider all the grounds raised by the petitioners. In case the petitioner is appointed in a minority institution, in that case also the question of absorption of surplus candidates shall not arise. The said fact shall also be considered by the Education Officer. Writ petition is disposed of accordingly. No costs.

**(V.L.ACHLIYA, J) (S.V.GANGAPURWALA, J)**