

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
910 WRIT PETITION NO.12543 OF 2018**

SHASHIKANT DATTATRAYA GHORBAND AND ANOTHER
..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. V. S. Panpatte, Advocate for the Petitioners.
Mrs. A. G. Gondhalekar, AGP for Respondents-State.
Mr. S. R. Choukidar, Advocate for Respondent No.4.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 13th FEBRUARY, 2019.

PER COURT:-

1. We have heard Mr. Panpatte, learned counsel for petitioners, the learned A.G.P. and Mr. Choukidar, learned counsel for respondents.

2. The petitioner no.1 is from Open category and petitioner no.2 is from Scheduled Caste category. The petitioners were appointed as Shikshan Sevak. The Education Officer granted approval to the appointment of petitioners as Shikshan Sevak. Thereafter, permanent approval was granted to the appointment of petitioners as Assistant Teacher. Subsequently, the Deputy Director of Education reopened the proceeding and set aside the approval granted to petitioners as Shikshan Sevak on the ground that there is backlog of one S.T., one V.J., one N.T.-B and two O.B.C. posts.

3. The management has filed affidavit-in-reply and has also produced the original register wherein the roster has been verified by the Assistant Commission, B.C. Cell.

4. From the said roster, it appears that, still four posts from Open category are vacant. One each from S.C. and S.T., three from O.B.C. and two from V.J. are vacant. It appears that there are vacant posts from Open category. It is not a case that the petitioner no.1 was appointed on a post not meant for Open category candidate or petitioner no.2 for S.C. category candidate. Considering the verified roster, the impugned order does not appear to be proper.

5. In light of that, the impugned order is quashed and set aside.

6. Even otherwise, Mr. Choukidar, learned counsel on instructions submits that the Institution undertakes to fill in vacant posts from the reserved category.

7. In view of the setting aside of the impugned order, necessary consequences would follow.

(A. M. DHAVALA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE