

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

WRIT PETITION NO. 6698 OF 2021

Ashok Bhanudas Shinde and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Parag V. Barde, Advocate for Petitioners.

Shri S. B. Pulkundwar, A.G.P. for Respondent Nos. 1 and 2.

Shri Shivaji T. Shelke, Advocate for Respondent Nos. 3 and 4.

Shri S. S. Jadhavar, Advocate for Respondent Nos. 5 and 6.

**CORAM : S. V. GANGAPURWALA AND
R. N. LADDHA, JJ.**

DATE : 30TH NOVEMBER, 2021.

FINAL ORDER :

. It is submitted that, the pay bills of the petitioners are not accepted. The petitioner No. 1 claims to have been appointed in the year 1997 as a watchman and the petitioner No. 2 as a special teacher in the year 2013. Their appointments are approved. On or about 22nd March, 2021, the directions are given to exclude the names of the petitioners on the ground that they are appointed contrary to the roster.

2. Mr. Barde, the learned counsel submits that, the appointments of the petitioners are on the sanctioned posts and as per the roster. No illegality has been committed. The procedure has been followed. It is only after entire procedure has been

followed the petitioners are appointed. As the petitioners are appointed on sanctioned posts and the roster has been followed, the Social Welfare Officer has granted approval.

3. According to the learned Assistant Government Pleader, the roster has not been followed while appointing the petitioners. The respondent No. 5 has made appointments contrary to the reservation policy and as such the state is not required to pay the salary. The appointments of both these petitioners are not in tune with the reservation policy. It is for the respondent No. 5 to pay the salary of these persons.

4. We have also heard Mr. Shelke, the learned counsel for respondent Nos. 3 and 4 and Mr. Jadhavar, the learned counsel for respondent Nos. 5 and 6.

5. It appears that, enquiry has not yet been conducted by the superior authority than the authority who has granted approval. The petitioner No. 1 is working for almost 24 years and the petitioner No. 2 for almost 08 years. Now the objection has been taken that, their appointments are not as per the roster. The roster as was applicable in the year 1997 when the petitioner No. 1 was appointed and in the year 2013 when the petitioner No. 2 was appointed would be relevant to be considered.

6. At the relevant time if the post was available for general category candidates, then the said aspect also ought to be

considered by respondents.

7. In the light of the above, we set aside the impugned orders passed by respondent Nos. 4 and 5. The respondent No. 2 may make an enquiry in respect of appointments of these petitioners as per roster and then the further decision can be taken after affording opportunity to petitioners and the management. Till the time decision is taken by the respondent No. 2, salary bills of these petitioners shall not be withheld. Same shall be processed and paid as per rules. Enquiry may be conducted by the respondent No. 2 expeditiously and preferably within a period of six (06) months from today. The writ petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov.21