

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 375 OF 2020

1. Satish S/o Yashwant Ninave,
aged about 45 years, Occ. Service,
R/o Near Old Bus Stop, Armori,
Tah. Armori, District – Gadchiroli – 441208.
2. Dattatraya S/o Maroti Nimje,
aged about 47 years, Occ. Service,
R/o At Post – Kurud, Tah. Desaiganj,
District – Gadchiroli – 441207.

PETITIONERS

.....VERSUS.....

1. The State of Maharashtra,
through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai – 32.
2. Zilla Parishad, Gadchiroli,
through its Chief Executive Officer.

RESPONDENTS

Shri S.R. Narnaware, Advocate for the petitioners.
Shri D.P. Thakare, Additional Government Pleader for respondent No.1/ State.
Shri A.W. Paunikar, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 3 AUGUST, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
Counsel for the parties.

2. Both the petitioners were appointed as ‘Laboratory
Technician’ with the Zilla Parishad, Gadchiroli on 31/3/1999. Since they

claim benefit of reservation, their tribe certificates were referred for verification. The Scrutiny Committee invalidated the tribe certificates. Petitioner No. 1 – Satish challenged that order in Writ Petition No. 2666/2014. This Court on 28/1/2015 did not interfere with the order of the Scrutiny Committee but granted protection to the said petitioner's services. Petitioner No.2 filed Writ Petition No. 6648/2013 and a similar order protecting his services was passed on 13/1/2015. Since the Zilla Parishad on 26/12/2019 placed the petitioners on a supernumerary post, they have challenged that notice in this Writ Petition.

3. It is seen that with regard to the Assistant Teachers from the Zilla Parishad, Gadchiroli itself, this Court had an occasion to consider a similar action taken by the Zilla Parishad of placing the Assistant Teachers on a supernumerary post. After considering the judgment of the Aurangabad Bench in Writ Petition No. 903/2020 (*Raja Tukaram Shinde Vs. The State of Maharashtra and another*) decided on 4/5/2021 with connected Writ Petitions, the order placing those Assistant Teachers on a supernumerary post was set aside and it was held that they are entitled to continue in service on the basis of the earlier orders of protection. The said orders have been passed in Writ Petition No. 411/2020 (*Sau. Heerabai w/o Nandkishor Sonkusare (Ku. Heerabai D/o Mahadeo Sorte) Vs. The State of Maharashtra and another*) and Writ Petition No.

416/2020 (*Kishor S/o Laxman Sonkusare Vs. The State of Maharashtra and another*) decided on 15/12/2021.

4. In these facts, as the present petitioners are similarly situated and the ratio of the decision in *Raja Tukaram Shinde (supra)* applies to the case in hand, the petitioners will be entitled for similar relief. Hence for the reasons contained in the decision in *Raja Tukaram Shinde (supra)* as well as in Writ Petition Nos. 411/2020 and 416/2020, the following order is passed :

ORDER

- i. The order dated 26/12/2019 issued by respondent No.2 appointing the petitioners on a supernumerary post is set aside.
- ii. The petitioners are entitled to continue in employment in terms of the earlier orders of protection that was passed in Writ Petition Nos. 2666/2014 and 6648/2013.
- iii. Rule is made absolute in the aforesaid terms. No costs.