

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

WRIT PETITION NO. 376 OF 2020

Rajesh S/o Motilal Chandan,
aged about 46 years, Occ. Service,
R/o Koshatwar Ward, New Pusad,
Behind Mukhare Home, N. Garden Road,
District – Yavatmal.

PETITIONER

.....VERSUS.....

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

RESPONDENTS

Shri S.R. Narnaware, Advocate for the petitioner.
Shri A.S. Fulzele, Additional Government Pleader for respondent No.1/ State.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : 24/11/2022

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

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

2. The petitioner was appointed as an Assistant Teacher on the post reserved for the candidates belonging to the Scheduled Tribe category. On invalidation of his tribe claim, the petitioner approached this Court in Writ Petition No. 6476/2016 raising challenge to the order passed by the Scrutiny Committee. By the judgment dated 20/12/2016,

this Court protected the services of the petitioner subject to filing the requisite undertaking. The services of the petitioner were thereafter placed on a supernumerary post by the Zilla Parishad on 31/12/2019. Being aggrieved, the petitioner has challenged the said order.

3. On hearing the learned Counsel for the parties, it is seen that the aforesaid factual position arising in similar Writ Petitions has been considered by this Court in Writ Petition No. 375/2020 (*Satish s/o Yashwant Ninave & Anr. Vs. The State of Maharashtra & Anr.*) decided on 3/8/2022. After noticing the judgment of the Aurangabad Bench in Writ Petition No. 903/2020 (*Raja Tukarama Shinde Vs. The State of Maharashtra & Anr.*) decided on 4/5/2021 with connected Writ Petitions, the order placing the Assistant Teachers on a supernumerary post was set aside and it was held that they are entitled to continue in service on the post held by them as Assistant Teacher.

4. We find that in the light of the aforesaid decision, the petitioner would be entitled to similar relief since he is similarly situated. Hence, following the ratio of the decision in *Raja Tukaram Shinde (supra)*, the petitioner is entitled to similar relief. Accordingly, the following order is passed :

i. The order dated 31/12/2019 issued by respondent No.2 placing the petitioner on supernumerary post is set aside. The petitioner is

entitled to continue in employment in terms of the earlier order of protection granted by this Court in Writ Petition No. 6476/2016.

ii. Rule is made absolute in the aforesaid terms. No costs.

(ANIL L. PANSARE, J.)

(A.S. CHANDURKAR, J.)

SUMIT