



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 15499 OF 2013 (GM-CC)

BETWEEN

SMT V SUMITRA
D/O VEMLATA SHETTY
AGED ABOUT 41 YEARS
GEJJALAMATTA VILLAGE
KOLLEGAL TALUK
MYSORE DISTRICT

...PETITIONER

(BY SRI. M.S. BHAGWATH SR. ADVOCATE FOR
SRI. L. SRINIVASA BABU., ADVOCATE)

AND

1. STATE OF KARNATAKA
REPRESENTED BY THE
PRINCIPAL SECRETARY TO
SOCIAL WELFARE DEPARTMENT
M S BUILDING,
DR AMBEDKAR ROAD
BANGALORE-560001
2. THE MEMBER SECRETARY
CASTE & INCOME VERIFICATION
COMMITTEE & DISTRICT OFFICER
B C M MYSORE DISTRICT
MYSORE
3. THE DEPUTY DIRECTOR OF PUBLIC
INSTRUCTIONS, MYSORE DISTRICT
MYSORE
4. THE DIVISIONAL COMMISSIONER
MYSORE DIVISION
MYSORE

RESPONDENTS





(BY SRI. MAHANTESH SHETTAR., AGA FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT QUASHING THE ORDER DATED 8.4.1996 IN NO.BCM.4.ANI.77-96-96 PASSED BY THE 2ND RESPONDENT TRUE COPY OF WHICH IS PRODUCED AT ANNEXURE-d AND THE ORDER DATED 15.06.1999 IN NO.CCI.30/97-97 PASSED BY THE APPELLATE AUTHORITY 4TH RESPONDENT TRUE COPY OF WHICH IS PRODUCED AT ANNEXURE-E AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 12.03.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking the following reliefs:

- a. Issue a writ of certiorari or any other writ quashing the order dated 8.4.1996 in No.BCM.4.ANI.77-96-96 passed by the 2nd Respondent true copy of which is produced at Annexure-D and the order dated 15.6.1999 in No.CCI.30/97-97 passed by the appellate authority 4th Respondent true copy of which is produced at Annexure-E.*
- a1. Declare that classification of the category one for the purpose of education and one for the purpose of employment is discriminatory and illegal and void-ab-intio and restrain the respondents from enforcing the impugned order one for the purpose of education and one for the purpose of employment.*
- b. Declare that the Petitioner belongs to Banajiga Group-B category considering the special facts and circumstances or in the alternative direct the respondents to consider her appointment under*



Group-D and allow he to continue in employment of Primary School Teacher in the ends of justice.

c. Issue, any other writ or direction that deems fit and necessary to meet the ends of justice.

2. The Petitioner is stated to belong to the "Balajiga/Banajiga community" having completed her education showing her caste as "Balajiga/Banajiga", which comes under the Group-B Category as classified in terms of Article 15(4) of the Constitution of India. The Petitioner had applied for the post of Primary School Teacher and sought a reservation under the OBC category. She had been selected and appointed as a teacher, having declared in Form No.3, which applies to Groups B, C and D. The Tahsildar had also issued a certificate after due enquiry that she belongs to Group-B category.
3. A provisional appointment letter was issued on 17.01.1993, in terms whereof the Petitioner continued to render services. It was only on 19.02.1996 that a notice came to be issued alleging that for the purpose of employment, she would



belong to Group-D and not Group-B, and that the Caste Certificate which was issued was not proper or applicable for such reservation.

4. Respondent No.2 cancelled the caste certificate by way of an order dated 08.04.1996. The Petitioner preferred an appeal before respondent No.4 on the ground that mentioning Group B instead of Group-D was a technical error, the caste had been properly mentioned, and the respondent could be treated under Category-D. This appeal came to be dismissed by respondent No.3-the Deputy Director of Public Instructions vide order dated 15.06.1999.
5. The Petitioner had approached this Court by filing WP No.22400 of 1999, when vide order dated 29.09.2000, the Petitioner was directed to approach the Karnataka Administrative Tribunal. Accordingly, an appeal having been filed before the Karnataka Administrative Tribunal. The Tribunal vide its order dated 11.02.2013, held it not to be maintainable,



reserving liberty to the Petitioner to approach the appropriate forum.

6. The Petitioner, contending that she has put in more than 20 years of service as a Primary School Teacher, has once again approached this Court, firstly on the ground that she had been relegated to the Karnataka Administrative Tribunal by virtue of an order of this Court. However, the Administrative Tribunal has rejected the appeal as not maintainable. The contention is also that the Petitioner having always claimed to belong to the "Balajiga/Banajiga community", there is no suppression or false statement, or a false declaration made by the Petitioner.
7. During the pendency of the above matter, the Petitioner filed an amendment application, which was allowed. In terms of the amendment, the Petitioner brought on record the Government Order dated 13th October 1986, whereby backward classes were divided into groups. The Petitioner, as stated,



belonging to the “Balajiga/Banajiga community” had been shown in Annexure-I, Group-B at Sl.No.133(b) for educational purposes, insofar as the reservation made under Article 15(4) of the Constitution of India. However, insofar as employment is concerned, the very same community had been shown under Annexure-II, Group-D, at Sl.No.13(b) and in that background, the dual classification has also been challenged by seeking for additional prayer.

8. The submission of Sri.M.S.Bhagawat., learned Senior counsel for the Petitioner is that;

8.1. The Petitioner was always under the impression that there is only one classification for the “Balajiga/Banajiga community”, and it is in that background that she had indicated that she belongs to Group-B, the same always forming part of the records of her educational career. It is in that background that the Petitioner continued to represent herself as Group-B, even for employment purposes, not



knowing that there was a separate classification for employment purposes.

8.2. When it was brought to her notice that the “Balajiga/Banajiga community” is classified under Group-D, the classification having been shown to her, she immediately acceded to the said contention and was agreeable for her to be regarded as a person belonging to Group-D.

8.3. He submitted that it is only subsequently that the Petitioner came to know, after filing of the above petition, that there is a dual classification for the “Balajiga/Banajiga community”, one under Group-B for educational purposes under Article 15 (4) and the other under Group-D for employment purposes under Article 16 (4).

8.4. His submission is that there cannot be such a dual classification, more so when the “Balajiga/Banajiga community” is regarded to belong to Group-B for educational purposes, for employment purposes, it cannot be classified as



Group-D. When the community is held to be educationally backward in such a manner to be included in Group-B, without education, there are no employment facilities or opportunities, and the very same grouping of Group-B was required to be applied for employment opportunities also.

8.5. His submission is that, if a particular community for educational purposes has been classified under Group-B, even for employment purposes, the said community is required to be classified under Group-B and not otherwise.

8.6. He relies upon the decision of the Hon'ble Apex Court in ***K.C. Vasanth Kumar v. State of Karnataka***¹, more particularly para 141, 145 and 149 thereof, which are reproduced hereunder for easy reference;

141. Now reverting to the power of the Government to make reservations under Article 15(4) and Article 16(4) of the Constitution, we may state thus: The determination of the question

¹ 1985 (Supp) SCC 714



whether the members belonging to a caste or a group or a community are backward for the purpose of Article 15(4) and Article 16(4) of the Constitution is no doubt left to the Government. But it is not open to the Government to call any caste or group or community as backward according to its sweet will and pleasure and extend the benefits that may be granted under those provisions to such caste or group or community. The exercise of uncontrolled power by the Government in this regard may lead to political favouritism leading to denial of the just requirements of classes which are truly backward. The power of the Government to classify any caste or group or community as backward has to be exercised in accordance with the guidelines that can be easily gathered from the Constitution. It is now accepted that the expressions "socially and educationally backward classes of citizens" and "the Scheduled Castes and the Scheduled Tribes" in Article 15(4) of the Constitution together are equivalent to "backward classes of citizens" in Article 16(4). Dealing with the question whether any particular caste or group or community could be treated as socially and educationally backward for purposes of Article 15(4), the Court observed in Balaji case [AIR 1963 SC 649 : 1963 Supp (1) SCR 439] at p. 465 thus:

"Therefore, we are not satisfied that the State was justified in taking the view that communities or castes whose average of student population was the same as, or just below, the State average, should be treated as educationally backward classes of citizens. If the test has to be applied by a reference to the State average of student population, the legitimate view to take would be that the classes of citizens whose average is well or substantially below the State average can be treated as educationally backward."

145. *There is one other basis on which a classification made for purposes of Article 15(4) or Article 16(4) of the Constitution has received the approval of this Court in Chitralekha case⁵¹. In*



that case the Court was concerned with a list of backward classes prepared on the basis of economic condition and occupation. According to that Government Order, persons whose family income was Rs 1200 per annum or less and who were engaged in occupations such as agriculture, petty business, inferior services, crafts or other occupations involving manual labour were treated as belonging to backward classes. The Petitioner who had filed the petition in the High Court did not challenge the validity of the said classification. But on a submission made on behalf of the State Government, the Court expressed its general approval to the method of classification. Even in the case before us now, there is a reservation of 15 per cent of seats or posts in favour of members falling under a classification styled as "special group" which is based on similar occupation-cum-income considerations. Even here no serious objection is taken by any party to the said classification treating persons who satisfied the prescribed tests as being eligible for reservation. It is apparent that this "special group" is a creature of social, economic and political necessity. Since a classification made on the abovesaid basis has received the approval of a Constitution Bench of equal strength and its correctness is not challenged before us, we treat this classification as a valid one even though a criticism of this kind of classification was made, not unjustifiably as we now see, by the Mysore High Court in D.C. Viswanath case [AIR 1964 Mys 132] . This classification would include persons of all castes, groups and communities provided the two tests namely, occupation test and income test are satisfied.

149. *After carefully going through all the seven opinions in the above case, it is difficult to hold that the settled view of this Court that the reservation under Article 15(4) or Article 16(4) could not be more than 50 per cent has been unsettled by a majority on the Bench which decided this case. I do not propose to pursue this point further in this case because if reservation is made only in favour of those backward castes or*



classes which are comparable to the Scheduled Castes and Scheduled Tribes, it may not exceed 50 per cent (including 18 per cent reserved for the Scheduled Castes and Scheduled Tribes and 15 per cent reserved for "special group") in view of the total population of such backward classes in the State of Karnataka. The Havanur Commission has taken the number of students passing at SSLC examination in the year 1972 as the basis for determining the backwardness. The average passes per thousand of the total population of the State of Karnataka was 1.69 in 1972. The average in the case of the Scheduled Castes was 0.56 and in the case of Scheduled Tribes was 0.51. Even if we take all castes, tribes and communities whose average is below 50 per cent of the State average i.e. below 85 per cent for classifying them as backward, large chunks of population which are now treated as backward would have to go out of the list of backward classes. Consequently the necessity for reservation which would take the total reservation under Article 15(4) and Article 16(4) beyond 50 per cent of the total number of seats/posts would cease to exist. The present arrangement has been worked for more than five years already. It is now necessary to redetermine the question of backwardness of the various castes, tribes and communities for purposes of Article 15(4) and Article 16(4) in the light of the latest figures to be collected on the various relevant factors and to refix the extent of reservation for backward classes. The reservation of 15 per cent now made under Article 15(4) and Article 16(4) but which may be traced to Article 14 and Article 16(1) to "special group" based on occupation-cum-income can in any event be availed of by members of all communities and castes.

8.7. By relying on **Vasanth Kumar's case**, he submits that it is not open to the Government



to call any caste or, group or community as backward according to its sweet will and pleasure and extend the benefits. The power of the Government to classify any caste or group has to be exercised in accordance with the guidelines of the Constitution. The State cannot be held to be justified in making two separate classifications for Article 15(4) and Article 16(4). Whenever the aspect of classification in these two articles has been considered, they have always been considered together, and a single classification has been held to apply. The test for both socially and educationally backward being the same, if a particular community were to be classified in a particular group for educational purposes under Article 15(4), the very same classification ought to ensue insofar as classification for reservation under Article 16(4).



8.8. He relies upon the decision of the Hon'ble Apex Court in ***State of Punjab v. Davinder Singh***², more particularly para 173 of the lead judgment, which is reproduced hereunder for easy reference;

173. *In view of the discussion above, the following principles are summarised with respect to the objective and yardstick for identifying the beneficiary class under Articles 15(4) and 16(4):*

- a. *The beneficiary class in Article 15(4) must be a socially and educationally backward class. "Socially and educationally backward" are not mutually exclusive concepts. The phrase constitutes a constitutional recognition of the sociological reality that educational backwardness is caused by the social backwardness of the class;*
- b. *The beneficiary class in Article 16(4), similar to the class under Article 15(4), must predominantly be socially backward. The purpose of both the provisions is to ensure substantive equality of opportunity to the socially backward communities. The beneficiary class in Article 16(4) subsumes the socially and educationally backward classes under Article 15(4);*
- c. *The qualifier of inadequate representation in Article 16(4) is not mutually exclusive of the requirement of backwardness. The inadequate representation of the class in the services of the State must be because of social backwardness; and*

² 2024 SCC Online SC 1860



d. The adequacy of representation must be determined based on the standard of effective representation and not numerical representation.

8.9. His submission is that the Hon'ble Apex Court has categorically, in ***Davinder Singh's case***, summarized the objective and yardstick for identifying the beneficiaries under both Article 15(4) and 16(4), these criteria being one and the same for both Article 15(4) and 16(4), the same community cannot be classified under different groups.

8.10. He, thus, submits that the classification of the "Balajiga/Banajiga community" under Group-D insofar as employment opportunity is concerned and the classification of the "Balajiga/Banajiga community" under Group-B insofar as education is concerned under Article 15(4) cannot be countenanced under law. The said classification would have to be declared invalid, and the most beneficial classification would



have to be held to be applicable to both education and employment.

9. Sri.Mahantesh Shettar., learned AGA appearing for respondents No.1 to 4 would submit that;

9.1. The classification was made by taking various factors into account. The Government of Karnataka having considered all these aspects on the basis of available information in regard to the social and educational backwardness of the backward communities, castes and tribes and considering the class of poverty of each community, their way of life, standard of living, habits and the placing of the community in the social hierarchy has classified, the "Balajiga/Banajiga community" under Group-B for educational purposes, finding the said community to be educationally backward.

9.2. Insofar as classification under Article 16(4) for employment purposes, his submission is that



the said community is better placed economically. Therefore, the community is classified under Group-D.

9.3. On that basis, he submits that the classification made by the State being on objective criteria cannot be sought to be challenged in the manner done, and the petition is therefore required to be dismissed.

10. Heard Sri. M.S. Bhagawat learned that senior counsel appearing for the Petitioner and Sri.Mahantesh Shettar., learned AGA appearing for respondents No.1 to 4. Perused papers.

11. The points that would arise in the above matter for consideration are;

1. Can a particular community be classified for educational purposes under a different group than the classification made for the same community for employment purposes under a different group?

2. What order?



12. I answer the above points as follows:
13. **Answer to point No.1: Can a particular community be classified for educational purposes under a different group than the classification made for the same community for employment purposes under a different group?**

13.1.The facts and the notification that has been issued have been detailed hereinabove. The Petitioner belonging to the "Balajiga/Banajiga community" is not in dispute. It is also not in dispute that in terms of the notification issued, insofar as the reservation under Article 15(4) of the Constitution of India for educational purposes, the said "Balajiga/Banajiga community" is classified as Group-B.

13.2.Again, it is not in dispute that insofar as the reservation under Article 16(4), of the Constitution of India for employment purposes, the very same "Balajiga/Banajiga community" has been classified as Group-D. That is to say, that, insofar as the reservation under Article 15(4), the "Balajiga/Banajiga community" has



been classified as Group-B, insofar as reservation under Article 16(4) it is classified as Group-D.

13.3. Further, needless to say, the reservation under Group-B is more than that under Group-D. The Petitioner has had the benefit of the classification under Group-B during her education. However, when it came to employment, the Petitioner had once again, without knowing the dual classification had, applied for employment as a primary school teacher by indicating her caste to be "Balajiga/Banajiga" but under Group-B instead of Group-D.

13.4. The submission of Sri.M.S.Bhagawath., learned senior counsel for the Petitioner is that there cannot be two categories of reservation for the very same community, one for education, the other for employment.



13.5. The classification for both being made on the basis of Socio-economic Backwardness, the very same Socio-economic Backwardness would apply equally for reservation under both Article 15(4) and 16(4).

13.6. The submission of the learned AGA is that the Government has made the classification considering all the relevant factors. The same being a policy decision cannot be interfered by this Court. What is required to be considered by this Court is whether the classification made is on the basis of intelligible differentia and there is reasonable classification made on a rational basis, so that the reservation made for the very same community under Article 15(4) and 16(4) does not fall foul of equal treatment under Article 14. Article 14 of the Constitution of India is reproduced hereunder for easy reference;

14. Equality before law



The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

13.7. A perusal of Article 14 above would indicate that the State shall not deny to any person equality before the law or the equal protection of laws within the territory of India. The term equality before the law in my considered opinion, would also include the reservation to be equal in all respects i.e., both under Article 15(4) and Article 16(4).

13.8. The equal protection of laws would also in my considered opinion include reservation, since the protection by way of affirmative action is for grant of reservation of a particular number of seats in education or particular number of posts in employment. Thus, the protection under Article 14 being subject to Article 15(4) and Article 16(4), there cannot be a discrimination of reservation *inter se* Article 15(4) and Article 16(4).



13.9. Article 15 of the Constitution of India, is reproduced hereunder for easy reference:

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:

- (1) *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*
- (2) *No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-*
 - (a) *access to shops, public restaurants, hotels and places of public entertainment; or*
 - (b) *the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.*
- (3) *Nothing in this Article shall prevent the State from making any special provision for women and children.*
- (4) *Nothing in this Article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.*
- (5) *Nothing in this Article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions*



relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) *Nothing in this Article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—*

(a) *any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and*

(b) *any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.*

Explanation.—For the purposes of this Article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.



13.10. A perusal of Article 15 (4) would indicate that nothing in this Article or in Clause (2) of Article 29, shall prevent the State from making any special provision for the advancement of any Socially and Educationally Backward Classes of Citizens or for the Scheduled Castes and the Scheduled Tribes.

13.11. Article 16 of the Constitution of India, is reproduced hereunder for easy reference;

16. Equality of opportunity in matters of public employment:

- (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.*
- (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.*
- (3) Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.*



(4) *Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.*

(4A) Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of Scheduled Castes and the Scheduled Tribes which in the opinion of State are not adequately represented in the services under the State.

(4B) Nothing in this Article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent, reservation on total number of vacancies of that year.

(5) *Nothing in this Article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.*

(6) *Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections*



of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.

- 13.12. A perusal of Article 16(4) would indicate that nothing in Article 16 shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens, which in the opinion of the State is not adequately represented in the services under the State.
- 13.13. Except for making a statement that all aspects have been considered by the State, there is no data which has been placed by the State as regard what aspects have been taken into consideration while classifying the same community in Group-B in respect of Article 15(4) and in Group-D in respect of Article 16(4).
- 13.14. The differentiation in Article 15(4) and Article 16(4) is that under Article 15(4) special



provisions have to be made for advancement of any Socially and Educationally Backward Class of Citizens and under Article 16(4) special provisions could be made in respect of a community or class of citizens who is not adequately represented in the services under the State.

13.15. There is nothing which is placed on record to indicate that the "Balajiga/Banajiga community" has been adequately represented in the services under the State, despite sufficient opportunities having been granted.

13.16. Looked at it from another angle, when a particular community is stated be socially and educationally backward, it cannot be the case that such Socially and Educationally Backward Classes of Citizens are adequately represented in the services under the State.

13.17. Needless to say, that for a person to be engaged in the services under the State, such



person has to be educated and possess the requisite educational qualifications. If a class or community is socially and educationally backward for purposes of education, then the question of such Socially and Educationally Backward Classes being adequately represented in the services under the State, would not arise.

13.18. It is probably for the same reason that the framers of the Constitution firstly introduced Article 15, providing for special provisions to be made for Socially and Educationally Backward Classes Of Citizens, and thereafter under Article 16 provided for employment. Since the framers of the Constitution did realize that without education being provided, employment cannot be provided for such class, and it is only after making sufficient provisions for education that necessary provisions could be made for employment.



- 13.19. Looked at from this angle also, I am of the considered opinion that a particular class or category of persons cannot be said to be socially and educationally backward to classify them in Group-B for reservation under Article 15 (4) and consider the very same class to be more forward and adequately represented for the purpose of employment by classifying the same class in Group-D for purposes of Article 16(4).
- 13.20. This dichotomy and the dual standards which have been used is not justified by the State in any manner.
- 13.21. As rightly contended by Sri. M. S. Bhagwath., learned Senior counsel, whenever a particular class or category of persons is considered their status is to be considered the same both under Article 15(4) and Article 16(4) and in that regard he relied upon the decision of the Hon'ble Apex Court in ***K.C. Vasanth Kumar's***



case and again, in **Davinder Singh's case** the Hon'ble Apex Court has categorically held that for a beneficiary under Article 16 (4) such beneficiary class must predominantly be socially backward. The Hon'ble Apex Court has gone on to hold that the purpose of Article 15(4) and Article 16(4) is to ensure substantive equality of opportunity to the socially backward communities and further that the beneficiary class in Article 16(4) subsumes the socially and educationally backward classes under Article 15(4).

13.22. The Hon'ble Apex Court in **Devinder Singh's case** is clear and categorical in holding that Article 15(4) and Article 16(4) operate in the same sphere and that there has to be substantial equality of opportunity to socially backward communities, both in education and employment. The Hon'ble Apex Court in **Davinder Singh's case** further held that



inadequate representation in Article 16(4) is not mutually exclusive of the requirement of backwardness and the representation of the class in the services of the State must be because of the inadequate representation. It is therefore clear that what has been held by the Hon'ble Apex Court in **Vasanth Kumar's case**, as also in **Davinder Singh's case**, is that socially and educationally backwardness would be the basic criteria for both Article 15(4) and Article 16(4) to enable the State to make suitable special provisions.

13.23. In that view of the matter, I answer point No.1 by holding that a particular community cannot be classified for educational purposes under a different group than the classification made for the very same community for employment purposes under a different group. The community would have to be classified for



both educational purposes and employment purposes under the same group. The State having classified the "Balajiga/Banajiga community" as Group-B for education purposes, it is required for the State to classify the very same community as Group-B for employment purposes and not under Group-D.

14. **Answer to point No.2: What order?**

14.1. In view of my answer to the above point, I pass the following;

ORDER

- i. The writ petition is ***allowed***.
- ii. A certiorari is issued, order dated 8.4.1996 in No.BCM.4.ANI.77-96-96 passed by Respondent No.2 at Annexure-D and the order dated 15.6.1999 in No.CCI.30/97-97 passed by respondent No.4-Appellate Authority at Annexure-E are quashed.
- iii. It is declared that the classification of the "Balajiga/Banajiga community" for the purpose of employment, being different



from that for the purpose of education, is discriminatory and illegal and *void ab initio* and violative to Article 14 of the Constitution of India.

- iv. The State is directed to reclassify the "Balajiga/Banajiga community" under Article 16(4) under Group-B instead of Group-D.
- v. It is declared that the Petitioner belonging to "Balajiga/Banajiga community" would be entitled to reservation for employment, under Group-B and as such her employment as a primary school teacher is directed to be continued by availing of such benefit.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

SR
List No.: 1 Sl No.: 59