

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Miscellaneous Application No. 2171 of 2020

In

Civil Appeal No. 1567 of 2017

Siddaraju

... Appellant(s)

Versus

The State of Karnataka & Ors.

... Respondent(s)

With

Conmt. Pet. (C) No. 680/2020 in C.A. No. 1567/2017

Conmt. Pet. (C) No. 282/2021 in C.A. No. 1567/2017

C.A. No. 7147/2019

Conmt. Pet. (C) No. 678/2020 in C.A. No. 1567/2017

Conmt. Pet. (C) No. 679/2020 in C.A. No. 1567/2017

Conmt. Pet. (C) No. 686/2020 in C.A. No. 1567/2017

O R D E R

Miscellaneous Application No. 2171 of 2020

In Civil Appeal No. 1567 of 2017

1. The correctness of the judgment of this Court in ***Rajeev Kumar Gupta & Ors. v. Union of India & Ors.***¹ was raised by Union of India before a Division Bench of this Court. In ***Rajeev Kumar Gupta & Ors. v. Union of India & Ors.*** (supra), this Court held that persons with disabilities are entitled for reservation in promotions. The matter was referred to a larger Bench for considering the issues raised by the Union of India. After a detailed consideration of the judgments of this Court in ***Union***

¹ (2016) 13 SCC 153

of India & Anr. v. National Federation of the Blind & Ors.², **National Federation of the Blind v. Sanjay Kothari, Secretary Department of Personnel and Training**³ and **Rajeev Kumar Gupta & Ors. v. Union of India & Ors.** (supra), this Court answered the reference on 14.01.2020. The submission on behalf of the Union of India that **Rajeev Kumar Gupta & Ors. v. Union of India & Ors.** (supra) warrants reconsideration was rejected. This Court held that the Union and the State Governments are bound by the judgments of this Court in **Union of India & Anr. v. National Federation of the Blind & Ors.** (supra), **National Federation of the Blind v. Sanjay Kothari, Secretary Department of Personnel and Training** (supra) and **Rajeev Kumar Gupta & Ors. v. Union of India & Ors.** (supra).

2. This Miscellaneous Application has been filed by the Union of India for clarification of the judgment dated 14.01.2020. Notice was issued on 12.01.2021 and the Union of India was directed to submit a written note identifying the points on which clarification was sought. Pursuant to the said direction, a written note was filed by Ms. Madhavi Divan, learned Additional Solicitor General seeking clarification on the following four issues:

- a. whether the vacancies for promotion for PwDs would be computed only on the basis of the vacancies against the

² (2013) 10 SCC 772

³ (2015) 9 SCALE 611

- identified posts or against the vacancies in both identified and non-identified posts.
- b. whether reservation can be given to PwDs at the time of induction from SCS/Non-SCS to IAS.
 - c. whether the intention of the judgment is to grant reservation in promotion beyond the lowest rung of Group-A or up to the lowest rung of Group-A.
 - d. whether the judgment dated 14.01.2020 in Civil Appeal No.1567 of 2017, titled ***Siddaraju v. State of Karnataka & Ors.*** along with its tagged cases needs to be implemented on the basis of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, (based on which the case was filed) or the Rights of Persons with Disabilities Act, 2016 (the latest Act applicable on the date of judgment).
3. It was submitted by the learned Additional Solicitor General that reservation in promotion shall be in accordance with such instructions that are issued by the appropriate Government from time to time as provided in Section 34 of the Rights of Persons with Disabilities Act, 2016. As implementation of the three judgments mentioned above has given rise to some doubts, it is necessary that the points raised by the Union of India be answered and clarification be given to enable the Union of India to proceed with issuing instructions.
 4. Ms. Jayna Kothari, learned Senior Counsel and Mr. Rajan Mani, learned counsel opposed the submissions made by the learned

Additional Solicitor General by contending that there is no necessity for any clarification of the judgments of this Court referred to above. They have raised a grievance that the delay in issuing the instructions under the proviso to Section 34 resulted in stalling the implementation of reservation in promotion for persons with disabilities.

5. Having examined the judgments of this Court and the submissions made on behalf of the parties, we are of the opinion that there is no ambiguity in the judgments which warrants any clarification. The Union of India is directed to issue instructions regarding reservation in promotion as provided in Section 34 of the Rights of Persons with Disabilities Act, 2016 within a period of four months from today.
6. Miscellaneous Application stands disposed of accordingly.

Conmt. Pet. (C) No. 680/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 282/2021 in C.A. No. 1567/2017
C.A. No. 7147/2019
Conmt. Pet. (C) No. 678/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 679/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 686/2020 in C.A. No. 1567/2017

List on 16th November, 2021 as part-heard.

.....J.
[L. NAGESWARA RAO]

.....J.
[SANJIV KHANNA]

.....J.
[B.R. GAVAI]

New Delhi
September 28, 2021.

IA No. 111860/2021 - INTERVENTION APPLICATION
IA No. 48782/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

CONMT.PET.(C) No. 686/2020 in C.A. No. 1567/2017 (IV-A)
(FOR AMENDMENT IN CAUSE TITLE ON IA 40062/2021
FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 45546/2021
IA No. 40062/2021 - AMENDMENT IN CAUSE TITLE
IA No. 45546/2021 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 28-09-2021 These matters were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s)

Ms. Malini Poduval, AOR
Ms. Babita Sant, Adv.

Mrs. Madhvi Divan, Ld. ASG
Mr. Rajan Kr. Chourasia, Adv.
Ms. Vaishali Sharma, Adv.
Mr. Sanjai Kumar Tyagi, Adv.
Mr. Sachin Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Prashant Sharma, Adv.
Mr. Sumeer Sodhi, AOR
Mr. Siddharth Sharma, Adv.

Mr. Kuriakose Varghese, Adv.
Mr. V. Shyamohan, Adv.
Mr. Surya Prakash, Adv.
Mr. Sudeep Aravind Panicker, Adv.
Ms. Sohini Chowdhury, Adv.
M/S. Kmp Law Aor, AOR

Ms. Jayna Kothari, Sr.Adv.
Ms. Rukhsana Choudhury, AOR

Mr. Abhinav Ramkrishna, AOR

For Respondent(s)

Mr. V. N. Raghupathy, AOR
Mr. Md.Apzal Ansari, Adv.

Mrinal Gopal Elker, AOR
Mr. Shubhranshu Padhi, AOR

Mr. G. Prakash, AOR

Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, adv.

Mr. Sudarshan Rajan, AOR
Mr. Vardhman Kaushik , AOR

Mr. R.C. Mishra, Sr. Adv.
Mr. Ilin Saraswat, Adv.
Mr. Ananya Mishra, Adv.
Mr. Mahendra Kumar, Adv.
Mr. Rajnish Kumar Jha, AOR

Mr. Mukesh Kumar Maroria, AOR

Mr. Arvind Kumar Sharma, AOR

Dr. (Mrs.) Vipin Gupta, AOR

Mr. Shashank Singh, AOR

Mr. Rajan Mani, Adv.
Mr. Pukhrambam Ramesh Kumar, AOR
Ms. Ritu Kumar, Adv.
Mr. Karun Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

MISCELLANEOUS APPLICATION NO. 2171 OF 2020 IN CIVIL
APPEAL NO. 1567/2017

Miscellaneous Application stands disposed of in
terms of Signed Order.

Conmt. Pet. (C) No. 680/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 282/2021 in C.A. No. 1567/2017
C.A. No. 7147/2019
Conmt. Pet. (C) No. 678/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 679/2020 in C.A. No. 1567/2017
Conmt. Pet. (C) No. 686/2020 in C.A. No. 1567/2017

List on 16th November, 2021 as part-heard.

(SONIA BHASIN)
COURT MASTER (SH)

(ANAND PRAKASH)
BRANCH OFFICER