

Supreme Court of India

Chetana Dilip Motghare vs Bhide Girls' Education Society ... on 22 January, 1993

Equivalent citations: 1994 AIR 1917, 1995 SCC Supl. (1) 157

Author: N Kasliwal

Bench: Kasliwal, N.M. (J)

PETITIONER:

CHETANA DILIP MOTGHARE

Vs.

RESPONDENT:

BHIDE GIRLS' EDUCATION SOCIETY NAGPUR

DATE OF JUDGMENT 22/01/1993

BENCH:

KASLIWAL, N.M. (J)

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KASLIWAL, N.M. (J)

SINGH N.P. (J)

CITATION:

1994 AIR 1917

1995 SCC Supl. (1) 157

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1.This review petition has been filed against our judgment dated 27-11-1992 passed in Civil Appeal No. 2193 of 1989 entitled Bhide Girls' Education Society v. Education Officer, Zila Parishad, Nagpur¹.

2.In the above decision we had held that in the case of Chakradhar Paswan (Dr) v. State of Bihar² the decision in Arati Ray Choudhury v. Union of India³ had been distinguished and it has been squarely laid down that if there was only one post in the cadre, there could be no reservation under Article 16(4) of the Constitution. We had noted that after the aforesaid decision in Dr Chakradhar case, the Government of Maharashtra had also issued a circular letter dated 1-3-1989 in which it was laid down that in view of the law laid down in Dr Chakradhar Paswan case² if a reservation is made for a single post in the beginning of the year for the purpose of filling up the same in future, by way of promotion, that will be unconstitutional. It was also laid down in the circular that the principle of

reservation would not apply in the case of an isolated post.

3. The petitioner in the review petition has contended that there is a judgment of a three-Judge Bench in CA No. 242 of 1992. *Vidyulata Arvind Kakade v. Digambar Gyanba Surwase* dated 17-1-1992 in which a view has been taken that the reservation applies in case of an isolated post also. It has further been pointed out in the review petition that in the aforesaid decision of three Judges, the judgment of the Constitution Bench in *Arati Ray Choudhury v. Union of India*³ has been maintained.

4. We find no force in the above contentions raised in the review petition. A perusal of the order of the three-Judge Bench in *Vidyulata* case (supra) shows that there is only a mention that both the cases i.e. *Arati Ray Choudhury v. Union of India*³ as well as *Dr Chakradhar Paswan v. State of Bihar*² had been perused but no opinion was expressed that *Chakradhar Paswan* case (Dr)² was not correctly decided. It was also mentioned in the above case decided by the three-Judge Bench that no copy of the writ petition had been filed and thus in the facts and circumstances of the case they declined to interfere with the decision of the High Court.

5. Thus, we are clearly of the view that *Dr Chakradhar Paswan* case² holds the field and the decision by the three-Judge Bench dated 17-1-1992 does not lay down any law and is not an authority for holding that the principle of reservation has to be applied in case of even one isolated post also. Apart from the above circumstances in the case before us, the Government of Maharashtra had also issued a circular dated 1-3-1989 after the decision in *Dr Chakradhar Paswan* case² to the effect that the principle of reservation would not apply in the case of an isolated post. In these circumstances, we find no force in this review petition and it is accordingly dismissed.

1 1993 Supp (3) SCC 527: 1994 SCC (L&S) 78: (1994) 26 ATC 89 2 (1988) 2 SCC 214: 1988 SCC (L&S) 516: (1988) 7 ATC 104 3 (1974) 1 SCC 87: 1974 SCC (L&S) 73 P. A. CHANDRAN v. BOARD OF REVENUE (EXCISE) (Hansaria, J.)