Supreme Court of India
Heggade Janardhan Subbarye vs The State Of Mysore And ... on 5 November, 1962
Equivalent citations: 1963 AIR 702, 1963 SCR Supl. (1) 475
Author: P Gajendragadkar
Bench: Sinha, Bhuvneshwar P.(Cj), Gajendragadkar, P.B., Wanchoo, K.N., Gupta, K.C. Das, Shah, J.C.

PETITIONER:
HEGGADE JANARDHAN SUBBARYE

Vs.

RESPONDENT:
THE STATE OF MYSORE AND ANOTHER(And connected petition)

DATE OF JUDGMENT:
05/11/1962

BENCH:
GAJENDRAGADKAR, P.B.
BENCH:
GAJENDRAGADKAR, P.B.
SINHA, BHUVNESHWAR P.(CJ)
WANCHOO, K.N.
GUPTA, K.C. DAS
SHAH, J.C.

CITATION:
1963 AIR 702 1963 SCR Supl. (1) 475

ACT:
College Admission-Reservation of seats for socially and educationally backward classes struck down-Reservation for Scheduled Caste and Tribes upheld-Constitution of India, Art. 15(4).

HEADNOTE:
The petitioners challenged the validity of the orders issued by the State of Mysore under Art. 13(4) of the Constitution on July 10, 1961, and July 31, 1962. The petitioners contended that they had applied for admission to the Pre-Professional Class in Medicine in the Karnatak Medical College, Hubli and they would have secured admission to the said medical college but for the reservation directed to be made by the orders mentioned above. They contended that the above-mentioned orders were ultra vires. They prayed for an appropriate writ or order restraining the respondents from giving effect to those orders and requiring them to deal with their applications for admission on merits.
Held, that the petitioners were entitled to an appropriate

writ or order as claimed by them and the respondents were restrained from giving effect to the above-mentioned orders. M. R. Balaji v. State of Mysore [1963] Supp. 1 S.C.R. 439, followed.
The impugned orders we quashed only with reference to the additional reservation made in favour of the socially and
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educationally backward classes and so the respondents were at liberty to give effect to the reservation made in favour of the' Scheduled Castes and Scheduled Tribes, which was not challenged at all. The said reservation continues to be operative.

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petitions Nos. 130 & 133 of 1962.

Under Article 32 of the Constitution of India for the enforcement of Fundamental Rights.

S. K. Venkatarangaiengar and R. Gopalakrishnan, for the Petitioners (In both the Petitions).

P. D. Menon, for the Respondents (In both the Petitions). 1962. November 5. The judgment of the Court, was delivered by GAJENDRAGADKAR,J.-These two writ petitions Nos.130 of 1962 and 133 of 1962 have been filed by Heggade. Janardhan Subbarye and Ravindra Prabhu respectively (hereinafter called the petitioners) under Art. 32 of the Constitution, challenging the validity of the orders issued by respondent No. 1, the State of' Mysore, under Art. 15(4) of the Constitution on July 10, 1961 and July 31, 1962, respectively. Both the petitioners had applied for admission to the pre-Professional Class in Medicine in the Karnatak Medical College, Hubli, and the applications had been submitted to respondent No. 2, the Selection Committee appointed in that behalf by respondent No. 1. According to the petitioners, they would have secured admission to the said Medical College but for the reservation directed to be made by the two impugned orders. They alleged that the orders were ultra vires, and so, they prayed for an appropriate writ or order restraining the respondents from giving effect to the said orders and requiring, them to deal. with the petitioners' 'applications on the merits.

The points raised by the present petitions are covered by the decision of this Court in the case of M.R. Balaji v. State of Mysore(1) and so, it is common ground that the petitioners are entitled to an appropriate writ or order as claimed by them.

Learned counsel for the respondents however, drew our attention to the fact that as a result of the decision of this Court in the case of M. R. Balaji (1) respondent No. 1 was feeling some doubt as to whether the reservation made by the impugned orders in respect of the Scheduled Castes and the Scheduled Tribes was also struck down by this Court. As the judgment shows, respondent No. 1 has consistently fixed the percentage of reservation in respect of the Scheduled Castes and the Scheduled Tribes at 15% and 3% respectively. Five orders have been passed by respondent No. 1 one

after the other under Art. 15(4), but the reservation fixed for the Scheduled Castes and the Scheduled Tribes has always remained the same. It is true that the judgment of this Court does not expressly say that the validity of the said reservation was not assailed before this Court and cannot, therefore, be deemed to have been affected by the decision. However, as the judgment shows, the only attack against the validity of the impugned orders was directed against the additional reservation made in favour of the socially and educationally Backward Classes of citizens in the State. The petitions filed in the said cases were confined to the said reservation and during the course of the arguments before this Court, it was not suggested by the petitioners' learned counsel that the reservation made in favour of the Scheduled Castes and Tribes was in any manner irregular or not justified by Art. 15(4). This position is not disputed by the petitioners' learned counsel before us. Therefore, we think that in order to avoid any doubt in the matter it is necessary to make it clear that our judgment in that case does not affect the (1) (1963) supp. 1 S. C. R. 439.

validity of the said reservation which is distinct and separate from, and independent of, the other reservation which was challenged. The said reservation continues to be operative and the fact that the impugned orders have been quashed does not alter that position. The said orders have been quashed solely by reference to the additional reservation made by the impugned orders in regard to the socially and educationally Backward Classes, and so, respondent No. 1 would be justified in giving effect to the reservation made in respect of the Scheduled Castes and Scheduled Tribes.

In the result, we allowed the petitions and direct that an appropriate writ or order should be issued' restraining the respondents from giving effect to the two impugned orders. In the circumstances of these cases, we direct that the petitioners should get from the respondents costs incurred by them, except the hearing fee.

Petitions allowed.