

ITEM NO.104

COURT NO.1

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2800/2014

SATYAJIT DAS & ANR.

Appellant(s)

VERSUS

AJIT KUMAR TRIPATHY & ANR.

Respondent(s)

WITH

W.P.(C) No. 100/2011 (X)

(IA No. 23928/2021 - CLARIFICATION/DIRECTION

IA No. 1/2011 - STAY APPLICATION)

CONMT.PET.(C) No. 24/2013 In C.A. No. 2800/2014 (XI-A)

W.P.(C) No. 140/2013 (X)

(IA No. 29756/2022 - CLARIFICATION/DIRECTION)

SLP(C) No. 32905-32907/2017 (XI-A)

Date : 29-09-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE J.B. PARDIWALA

For parties:

Mr. C.U. Singh, Adv.
Ms. Anindita Pujari, AOR
Mr. Harish Gupta, adv.
Mr. Azad Bansala, Adv.
Ms. Prakriti Rastogi, Adv

Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Varun Chandiok, Adv.
Ms. Priya Kaushik, Adv.
Mr. Dinesh Kumar, Adv.
Ms. Priya Seth, Adv.
Mr. Amarjit Singh Bedi, AOR

Mr. Prasenjit Keswani, Advocate
Mr. Mahesh Kumar, Advocate
Mr. Upmanyu Tiwari, Advocate
Mr. Zakir Husain, Advocate
Ms. Devika Khanna, Advocate
Mrs. V.D. Khanna, Advocate
Mr. Vmz Chambers, AOR

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

One of the issues raised by Mr. Gopal Sakaranarayanan, Senior Advocate and Mr. Prasenjit Keswani, learned Advocate appearing for the petitioners is that there was binding nature of the determination made by the High Court in favour of their clients; and that the basis of such determination was not in any way taken away or shaken by Section 10 of the Odisha Reservation of Post and Services (for socially and Educationally Backward Classes) Act, 2008; and therefore Section 10 of the said Act which sought to validate all actions retrospectively could not have validated the acts retrospectively.

It is submitted by the learned counsel that in all, there are 13 affected persons and their clients are not interested in pushing down those candidates who as a result of reservation beyond 50% got accommodated in the service at the relevant levels; and that their clients would be interested in equivalent status in service as was accorded to those persons who could walk in only as a result of reservation beyond 50%.

It appears that the Notification dated 17.02.2009 issued in terms of the aforesaid Act was independently under challenge and by order dated 29.06.2017, said notification was struck down by the High Court on the ground that it was contrary to the law laid down by this Court in Indra Sawhany's case¹. That decision rendered by the High Court is presently under challenge at the instance of the state of Odisha in SLP(C) No.32905-07 of 2017.

The matters, therefore, lie in a narrow campus. If the submissions made by the learned counsel appearing for grant of equivalent status to their clients is acceptable to the State government, the first part of the challenge regarding applicability of Section 10 of the Act would get taken care of.

In that case, the subsequent challenge at the instance of the State to the validity of the Notification dated 07.02.2009 with regard to the grounds raised, alone will be required to be gone into.

Learned counsel for the State shall, therefore, take appropriate instructions whether the suggestion made by the learned counsel for the petitioners is acceptable; if not, then only the question regarding validity of the notification can be gone into.

At the request of the learned counsel appearing for the State, the matter is adjourned to 18.10.2022.

(INDU MARWAH)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)