

α:PART-HEARD

ITEM NO.101

COURT NO.3

SECTION XIA

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.3361 OF 2002

PRESIDENT, SIUC

Appellant (s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

(With appln(s) for stay, urging addl. grounds, permission to place addl. documents on record, intervention/impleadment and office report)

With Writ Petition (C) No.322 of 2001

(With appln.(s) for stay)

Civil Appeal No.3362 of 2002

(With appln.(s) for directions and office report)

[With appln. to allow the appellants to restate their case and to urge additional grounds including errors apparent on face of record]

[With I.A. No.5: Appln. of Respondent No.5 Backward Classes Reservation Protection Council seeking permission to file additional documents in Civil Appeal Nos.3361 and 3362 of 2002]

Date: 24/02/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE Mr. JUSTICE TARUN CHATTERJEE

For Appellant(s)/
Petitioner(s):
Mr. K.K. Venugopal, Sr. Adv.
Ms. Lily Isabel Thomas, Adv.
Mr. Justus Nadar, Adv.
Mr. Ankur Talwar, Adv.
Ms. Shajoo Francis, Adv.

For State of Kerala:
Mr. T.L.V. Iyer, Sr. Adv.
Mr. K.R. Sasiprabhu, Adv.
Mr. John Mathew, Adv.
Ms. G. Indira, Adv.

For Respondent(s)
Mr. S. Ganesh, Sr. Adv.
Mr. Ramesh Singh, Adv.
Mr. P. Venugopal, Adv.
Mr. P.S. Sudheer, Adv.
Ms. Surekha Raman, Adv.
for M/s. K.J. John & Co., Adv.

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Mr. Fazlin Anam, Adv.
Mr. E.M.S. Anam, Adv.
Mr. Vipin Nair, Adv.
Mr. P.B. Suresh, Adv.
Mr. Biju K. Adv.
for M/s. Temple Law Firm, Adv.
Mr. C.K. Sasi, Adv.
Mr. P.V. Dinesh, Adv.
Mr. K.K. Venugopal, Sr. Adv.
Mr. S.U.K. Sagar, Adv.
Ms. Bina Madhavan, Adv.
Ms. Pooja Nanekar, Adv.

Ms. Susan, Adv.

for M/s. Lawyer's Knit & Co., Adv.

UPON hearing counsel the Court made the following

O R D E R

In terms of Government Order dated 13th December, 1978, Hindu Nadars as well as SIUC Nadars were clubbed together. In implementation of the said Order, Kerala State Subordinate Services Rules [for short, "the Rules"] were amended on 20th June, 1979 and 13th December, 1982. Prior to the issue of the Government Order and the aforesaid Rules, Christian Nadars, as per Government Order dated 31st May, 1963, had one per cent reservation along with Anglo-Indians as part of SIUC. Hindu Nadars were part of residuary category of backward classes with ten per cent reservation for different castes falling in the said residuary category.

The Government Order of 1978 and the amended Rules of 1979 and 1982, referred to above, have been quashed by the High Court by the impugned judgement and order dated 28th August, 2000. The impugned order also gives directions as to the category in which Hindu Nadars and the SIUC Nadars would remain.

After hearing the learned counsel for the parties, it seems that there has been some confusion in the proper understanding of the directions issued

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by the High Court as to the category in which the two groups, aforesaid, would fall. Tentatively, it is agreed, subject to the learned counsel taking

specific instructions from their respective clients, that the two groups shall remain as a separate class. The matter as to the extent of reservation would be determined by the Kerala State Commission for Backward Classes [for short, "the Commission"] under the provisions of the Kerala State Commission for Backward Classes Act, 1993 and orders passed on receipt of the Report from the Commission by the State Government. In the interregnum, the SIUC Nadars, as before, would continue to have reservation of one per cent with Anglo-Indians and Hindu Nadars would continue to be part of residuary category, afore-noted, and would be part of Other Backward Classes entitled to ten per cent reservation along with other castes. It is further agreed, tentatively, that if the parties finally agree on the aforesaid issues, consequential directions may also be made protecting the interests of those who may have been appointed after the pronouncement of the impugned judgement and order but, may be, not on the complete understanding of the directions given by the High Court. The question of the extent of reservation would be examined by the Commission as also the question whether the Hindu Nadars and SIUC Nadars deserve to be clubbed with any other class or not. It is, however, agreed that the Hindu Nadars and SIUC Nadars would remain as separate class and both these groups would not be clubbed together. This aspect would not be open to be examined by the Commission.

If the parties are able to obtain instructions, as aforesaid, a common memorandum shall be drafted and placed before the Court.

List the matters after three weeks for directions.

Not to be treated as part-heard.

[T.I. Rajput]

Court Master

[Shelly Sengupta]

Court Master