

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4562-4564 OF 2017

THE STATE OF TRIPURA & ORS. APPELLANT(S)

VERSUS

JAYANTA CHAKRABORTY & ORS. RESPONDENT(S)

WITH

CONMT.PET.(C) No. 11/2017 IN SLP (C) No. 19765/2015 @ SLP(C)
Nos.19765-19767/2015,

CONMT.PET.(C) No. 13/2017 IN SLP (C) No. 19767/2015 @ SLP(C)
Nos.19765-19767/2015,

C.A. No. 5247/2016,
C.A. No. 11817/2016,
C.A. No. 4880/2017,
C.A. No. 4878-4879/2017,
C.A. No. 11816/2016,
C.A. No. 11820/2016,
C.A. No. 4876-4877/2017,
C.A. No. 4881/2017,
C.A. No. 4833/2017,
C.A. No. 4882/2017,
C.A. No. 701-704/2017,
C.A. No. 11822-11825/2016 ,
C.A. No. 11837-11840/2016,
C.A. No. 11842-11845/2016,
C.A. No. 11829-11832/2016,
C.A. No. 11847-11850/2016

ORDER

The questions posed in these cases involve the interpretation of Articles 16(4), 16(4A) and 16(4B) of the Constitution of India in the backdrop of mainly three Constitution Bench decisions - (1) **Indra Sawhney and others v. Union of India and others**¹, (2) **E.V Chinnaiah v. State of A.P. and others**² and (3) **M. Nagaraj and others v. Union of India and others**³. One crucially relevant aspect brought to our notice is that **Nagaraj** (supra) and **Chinnaiah** (supra) deal with the disputed subject namely backwardness of the SC/ST but **Chinnaiah** (supra) which came earlier in time has not been referred to in **Nagaraj** (supra). The question of further and finer interpretation on the application of Article 16(4A) has also arisen in this case. Extensive arguments have been advanced from both sides. The petitioners have argued for a re-look of **Nagaraj** (supra) specifically on the ground that test of backwardness ought not to be applied to SC/ST in view of **Indra Sawhney** (supra) and **Chinnaiah** (supra). On the other hand, the counsel for the

1 1992 Supp (3) SCC 217
2 (2005) 1 SCC 394
3 (2006) 8 SCC 212

respondents have referred to the cases of **Suraj Bhan Meena and Another v. State of Rajasthan and others**⁴; **Uttar Pradesh Power Corporation Limited v. Rajesh Kumar and others**⁵; **S. Panneer Selvam and others v. State of Tamil Nadu and others**⁶; **Chairman and Managing Director, Central Bank of India and others v. Central Bank of India SC/ST Employees Welfare Association and others**⁷ and **Suresh Chand Gautam v. State of Uttar Pradesh and others**⁸ to contend that the request for a revisit cannot be entertained *ad nauseam*. However, apart from the clamour for revisit, further questions were also raised about application of the principle of creamy layer in situations of competing claims within the same races, communities, groups or parts thereof of SC/ST notified by the President under Articles 341 and 342 of the Constitution of India.

2. Having regard to the questions involved in this case, we are of the opinion that this is a case to be heard by a Bench as per the constitutional mandate under Article 145(3) of the Constitution of India. Ordered accordingly. Place the files before the Hon'ble Chief Justice of India immediately.

3. Though the learned counsel have pressed for interim relief, we

4	(2011) 1 SCC 467
5	(2012) 7 SCC 1
6	(2015) 10 SCC 292
7	(2015) 12 SCC 308
8	(2016) 11 SCC 113

are of the view that even that stage needs to be considered by the Constitution Bench. The parties are free to mention the urgency before the Hon'ble Chief Justice of India.

.....J.
(KURIAN JOSEPH)

.....J.
(R. BANUMATHI)

New Delhi;

November 14, 2017.

ITEM NO.1502
(For Order)

COURT NO.5

SECTION XIV

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(S) . 4562-4564/2017

THE STATE OF TRIPURA & ORS.

Appellant(s)

VERSUS

JAYANTA CHAKRABORTY & ORS.

Respondent(s)

(WITH IA 1/2015 FOR ON IA 13/2017 AND IA
NO.64344/2017-APPROPRIATE ORDERS/DIRECTIONS AND IA
NO.64350/2017-APPROPRIATE ORDERS/DIRECTIONS

WITH

C.A. NO. 4880/2017 (XVI)
C.A. NO. 4878-4879/2017 (XVI)
C.A. NO. 4876-4877/2017 (XVI)
C.A. NO. 4881/2017 (XVI)
C.A. NO. 4882/2017 (XVI)

C.A. NO. 5247/2016 (IV-A)
C.A. NO. 11817/2016 (IV-A)
C.A. NO. 11816/2016 (IV-A)
C.A. NO. 11820/2016 (IV-A)
C.A. NO. 4833/2017 (IV)

(IA NO.60803/2017-PERMISSION TO APPEAR AND ARGUE IN
PERSON)

C.A. NO. 701-704/2017 (IV-A)
C.A. NO. 11822-11825/2016 (IV-A)
C.A. NO. 11837-11840/2016 (IV-A)
C.A. NO. 11842-11845/2016 (IV-A)
C.A. NO. 11829-11832/2016 (IV-A)

C.A. NO. 11847-11850/2016 (IV-A)
C.A. NO. 11828/2016 (IV-A)

CONMT.PET.(C) NO. 11/2017 IN SLP(C) NO.19765/2015 @
SLP(C) NO. 19765-19767/2015 ()

CONMT.PET.(C) NO. 13/2017 IN SLP(C) NO.19767/2015 @
SLP(C) NO. 19765-19767/2015 ()

(WITH IA NO.110979/2017-CLARIFICATION/DIRECTION)

DIARY NO(S) . 31145/2017 (IV-B)

(IA NO.102076/2017-CONDONATION OF DELAY IN FILING)

Date : 14-11-2017 These matters were called on for
pronouncement of order today.

For the parties

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Mr. S.J. Amith, Adv.
Dr. (Mrs.) Vipin Gupta, AOR

Dr. Krishan Singh Chauhan, AOR
Mr. Ajit Kumar Ekka, Adv.
Mr. Ravi Prakash, Adv.
Mr. Murari Lal, Adv.
Mr. Chand Kiran, Adv.

Dr. Krishan Singh Chauhan, AOR
Mr. R.S.M. Kalky, Adv.
Ms. Charu Lata Chaudhary, Adv.

Mr. B. Sridhar, AOR

Mr. Sandeep Devashish Das, AOR

Mr. Gaurav Agrawal, AOR

Mr. Samir Ali Khan, AOR

Mr. M. Shoeb Alam, AOR
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Mr. M.K. Dua, AOR



Respondent-in-person

Ms. Prerna Mehta, AOR

Ms. A. Sumathi, AOR

Hon'ble Mr. Justice Kurian Joseph pronounced the order of the Bench comprising His Lordship and Hon'ble Mrs. Justice R. Banumathi.

"2. Having regard to the questions involved in this case, we are of the opinion that this is a case to be heard by a Bench as per the constitutional mandate under Article 145(3) of the Constitution of India. Ordered accordingly. Place the files before the Hon'ble Chief Justice of India immediately.

3. Though the learned counsel have pressed for interim relief, we are of the view that even that stage needs to be considered by the Constitution Bench. The parties are free to mention the urgency before the Hon'ble Chief Justice of India."

(NARENDRA PRASAD)
COURT MASTER

(RENU DIWAN)
ASST. REGISTRAR

(Signed "Reportable" Order is placed on the file)

