

M. NAGARAJ vs. UNION OF INDIA

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In the Supreme Court of India

NAME OF THE CASE	M. Nagaraj & Others vs Union of India & Others
CITATION	Writ Petition (civil) 61 of 2002
DATE OF THE CASE	19 October 2006
APPELLANT	M. Nagaraj & Others
RESPONDANT	Union of India & Others
BENCH/JUDGE	Hon'ble Chief Justice Y. K. Sabharwal, Hon'ble Justice K. G. Balakrishnan, Hon'ble Justice S. H. Kapadia, Hon'ble Justice C. K. Thakker & Hon'ble Justice P.K. Balasubramanyan
STATUES / CONSTITUTION INVOLVED	The Constitution of India, 1950
IMPORTANT SECTIONS/ ARTICLES	The Constitution of Indian, 1950 – Article 14, 16(4A), 16(4B), 335

ABSTRACT

M. Nagaraj v. Union of India was decided by the Supreme Court in 2006. The Court upheld Parliament's decision to expand SC/ST reservations should include promotions (reservation in promotion). Furthermore, the Court imposed requirements that made granting such reservations difficult for the federal and state governments. The decision outlined three conditions that must be met before a promotion can be granted. Firstly, the state must demonstrate the class's backwardness. Second, it must demonstrate that the class is underrepresented in the role for which promotion reserves are being given. Finally, it must demonstrate that the limitations are for administrative purposes. In this case, the Constitutional Bench upheld four constitutional amendments proposed by Legislature to invalidate the effect of the Supreme Court's decision in Indra Sawhney Case.

INTRODUCTION

In Indian democracy, reservation has always been a sensitive yet explosive topic. One group claims that it has suffered various sufferings since the dawn of time and deserves some form of compensation. Another side, on the other hand, maintains that India is a liberal and secular society where everyone is treated equally. If any one group receives more benefits, they call it discriminatory. However, the same Constitution has provisions for reserve seats in all sectors of life, including education, government jobs, the judiciary, and so on. The Honourable Indian Supreme court has expressed its views on this issue in a number of rulings. These decisions illustrate the judiciary's behaviour in similar situations. The case of M. Nagaraj v. Union of India, where the idea of reservation in promotion in government agencies was questioned on the basis of the regulations on which it was based, trying to claim such policies to be discriminatory and illegal in nature, is one such important decision that has been a landmark in the field of reservation. The verdict was condemned for being ultra-vires and for violating the law of equity and the Nagaraj case rules.

Reservation in India refers to the practise of denying certain groups of people access to government employment, educational institutions, and even legislatures. It's sometimes referred to as affirmative action or positive discrimination. Development of socially and

educationally backward groups and Appropriate participation of any backwards section of the community and economically backward groups under any service are the two basic goals of providing reservation under the Indian Constitution. Reservation is one of the techniques used to combat social oppression and discrimination against specific groups.

Nagaraj's critics said that a five-judge panel wrongly and implicitly disregarded a nine-judge bench ruling in Indra Sawhney, which plainly stated that SCs and STs are homogeneous and cannot be divided.

In Indra Sawhney Case[1] the Supreme Court's Constitutional Bench of nine members ruled that under Article 16(4), the backward class of citizens can be recognised based on caste system rather than just economic factors. Article 16(4) is not an exception to the general rule (1). This is an example of classification. Article 16 allows for reservations (1). Backward classes in Article 16(4) were not the same as those in Article 15(4) who were socially and educationally backward. The backward classes must not include the creamy layer. Backward classes can be classified into backward and more backward classes under Article 16(4). A backward class of citizens cannot be established solely on the basis of economic grounds. Reservations should not exceed 50%. The Executive Order can be used to make reservations. Promotion does not include any reservations. Permanent statutory authority charged with investigating complaints of over- or under-inclusion. The majority felt there was no need to voice a view on the Mandal Commission's exercise being correct or adequate. Only the Supreme Court can resolve disagreements about new criteria.

FACTS OF THE CASE

The data in the current plea, which is the lead complaint, are that the Petitioners had already invoked Article 32 of the Constitution for just a certiorari writ to nullify the Constitution (Eighty-Fifth Amendment) Act, 2001, which retrospectively inserts Article 16(4A) of the Indian Constitution, offering reservation in promotion to significant seniority, as just being inconsistent with the constitution and violating the basic

structure. The challenged modification, as per the petitioners, overturns this Court's decisions in the cases of Union of India and others v. Virpal Singh Chauhan, Ajit Singh Januja and others v. State of Punjab, and Indra Sawhney v. Union of India.

According to the appellants, the Legislature has taken up legal functions itself and had also functioned as an adjudicating body by overturning the judicial statements of this Court through the use of the power of amendment, as executed by the infringed amendment, and is thus in violation of the Constitution's basic structure. As a result, the said amendment is unconstitutional and likely to be overturned. The amendment also tries to fundamentally alter right to equality, which is part of the Constitution's essential structure, according to petitioners. [2]

According to the petitioners, equality in the sense of Article 16(1) means "rapid promotion," not "consequential seniority." According to the petitioners, in the matter of Indra Sawhney decided by this Court declared that under Article 16(4), reserving to the backward classes is admissible only during initial recruitment and not during promotion. Petitioners claim that, in violation of the ruling, Parliament passed the Constitution (Seventy-Seventh Amendment) Act of 1995. Article 16(4A) was included by the aforementioned change, reintroducing reservation in promotion. The petitioners claim that granting accelerated seniority to roster-point promotes will have devastating repercussions.[3]

By the period he reaches the age of 45, a roster-point promote in the graduate stream will have advanced to the 4th level. He would achieve the highest level at the age of 49 and stay somewhere for nine years. The general merit promote, on the other hand, would reach the third level out of six at the age of 56, and by the time he became eligible for the fourth level, he would've have retired from employment. According to petitioners, the effects of the challenged 85th Amendment, which provides for reservation in promotion with attendant seniority, would result in discriminatory treatment in the ratio of reserved category officers in higher tier positions.[4]

ISSUES RAISED BEFORE THE COURT

The issue arises for the relevance, understanding, and application of-
the Constitution (Seventy-Seventh Amendment) Act, 1995,
the Constitution (Eighty-First Amendment) Act, 2000,
the Constitution (Eighty-Second Amendment) Act, 2000, and
the Constitution (Eighty-Fifth Amendment) Act, 2001

Is it true that the actions performed in response to the Supreme Court's judgment in
issues of promotions and its implementation with retrospective effect?

Whether authority of Legislature has been expanded to the point where any including all
of the constitutional restrictions have been eliminated as a result of the challenged
changes to the constitution?

Is equity and equality an element of the constitution's fundamental characteristics or
basic structure or otherwise?

ARGUMENTS FROM THE APPELLANT SIDE

According to the appellants' arguments, equality is a part of the basic structure
according to article 14 of Constitution of India and it is impossible to consider the
Constitution without fairness as one of its central components.

Appellants also argue that Article 16 is essential to equality, and that it must be read in
accordance with Article 14 as well as many Part IV articles.

As per the appellants, the Constitution places great value on public sector employment
and the law of equality, as Article 16 provides a specific assurance safeguarding
employment equity.

It is argued that if the fundamental balancing of equality in terms of efficiency is
interrupted, and the individual right is infringed upon with excess support for group
expectations, this would lead to reversed discrimination.

Upon this issue of amending and altering power, it is argued that Parliament cannot
increase its amendment jurisdiction in order to obtain the ability to repeal the
Constitution, and that if the breadth of the alteration encourages removal of the basic
structure, such amendment would fail.

There is indeed a contrast between quota limitations and maximum or threshold permitted reservation restrictions.

It is proposed that the equality of opportunity in public employment be defined in several cases, particularly Indra Sawhney, in order to set up and balance Articles 16(1) and 16(4).

It is urged that Articles 14 and 16 must be read in relation to Article 335 as issued; that the contested revisions violate the dual ideals of efficiency, merit, and public service morale, as well as the cornerstone of good governance. It is strongly advised that the contested revisions possibly allow to divisiveness, discord, and dissolution.[5]

ARGUMENTS FROM THE RESPONDENT SIDE

On the part of the respondents, the assertion was made that the authority of amendment is a 'constituent' power rather than a 'constituted power,' which means there are no implied restrictions on the Legislature's authority when seeking to amend the Constitution, but it does not violate, interfere with, or weaken the basic structure.

It is also argued that revisions to give effect to the guiding principles must not violate the Constitution's core structure. It is argued that the equality described in Articles 14 and 16 should not be confused with the equality that is a fundamental component of the Constitution.

It is argued that this approach of balancing public and reserve privileges in the interpretation of Article 16 has no connection to the Constitution's basic features, which include fundamental principles such as constitutional supremacy, democracy, secularism, separation of powers, etc.

It has been argued that jurisprudence dealing to public services is not a fundamental component of the Constitution, and that the right to consideration for advancement in service concerns is not a fundamental characteristic.

It is argued that the challenged modifications kept reservations at the recruiting level in contravention of the Indra Sawhney ruling, but the focus was on Backward Classes

rather than SCs/STs, and so there was no balance of rights of three categories. As a result, it is argued that reservation is restricted under Article 16(4A).

It was further argued that if it is legal to make reservations at higher levels through direct recruitment and can also be done for promotion while keeping in mind the authority of Article 335, as Court has taken care of the general category's interests by limiting vacancy filling to a maximum of 50% for reservation.

Finally, it was contended that Article 16(4B) relates to reservations under Article 16(4) that are deemed to be within acceptable limitations, and that if the reserve is excessive, it may be nullified. As a result, the enabling authority granted by Article 16(4B) cannot be null and void. [6]

RELATED PROVISIONS

The Constitution of India, 1950 –

Article 14 – The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.[7]

Article 16(4A) – Nothing in this article shall prevent the State from making any provision for reservation 3[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.[8]

Article 16(4B) – Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year[9]

Article 335 – The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency

of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.[10]

Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.

JUDGEMENT

The Bench ruled that the challenged legal amendments on the constitution added Articles 16(4A) and 16(4B) from Article 16(4). They make no changes to the framework of Article 16(4). They preserve the governing criteria or crucial factors, namely, backwardness and insufficiency of participation, which allows states to provide for reservation while keeping the general efficiency of government administration in mind under Article 335. These challenged amendments only apply to SCs and STs. They do not nullify any constitutional obligations, including the 50 percent ceiling, the notion of the creamy layer, the sub-classification of OBCs and SCs/STs as held in the Indra Sawhney case, and the idea of a post-based roster with an in-built idea of substitute as held in R.K. Sabharwal.

Affirming that the 50% threshold, the creamy layer idea, and the convincing reasons, including backwardness, insufficiency of representation, plus general administration efficiency, are all constitutional prerequisites without which the system of equal opportunity under Article 16 will fail. Before establishing provision for reservation, the Bench concluded that the concerned State must demonstrate the existence of compelling factors, including backwardness, lack of participation, and overall administrative effectiveness, in each case.[11]

The hon'ble Bench further said that the challenged clause is just an enabling provision, and the Government is not required to impose reservations for SC/ST in promotions. However, if they desire to use their discretion and establish such a provision, the State

must collect quantitative facts demonstrating the class's backwardness and insufficiency of representation in public employment, in addition to complying with Article 335.

The Bench ruled that even if the State has strong grounds, as described above, the State must ensure that its reservations law does not result to excessiveness, obliterating the creamy layer, or extending the reservation forever.

It was said that the state must submit verification of the underdevelopment of the class benefiting from the reservation, insufficient representative in the role for which the reserve in promotion is to be granted, and how reservation in promotions will promote administrative efficiency. The Court affirmed the constitutionality of the challenged constitutional changes.

According to the respected court, social justice is concerned with the allocation of advantages and obligations. The region of conflict between rights, needs, and means serves as the basis for distribution. These three requirements might be classified as "formal equality" or "proportional equality," with formal equality implying that the law treats everyone equally.^[12]

CONCLUSION

The Supreme Court issued its decision in the current case, upholding Parliament's action to broaden reservation for SCs and STs to also include promotional offers with three riders. The ruling in this case, in my opinion will give significant impact in the development of weaker section of the society. The laws which have been made to provide reservation in promotions will definitely encourage SC's or ST's to participate in work more efficiently, but in short term process.

Because I think it quickly gave rise to concerns that it fails to identify that the SCs and STs remained to face centuries of discriminatory by compelling the state to review their underdevelopment in the context of quotas in promotions. Even if some of them do not meet the requirements for backwardness, insufficient presence in services, or efficiency, leave alone their non-membership in the creamy layer category within the SCs and STs.
