

IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION

CONMT.PET.(C) No. 1700/2017

IN

CIVIL APPEAL NO. 5099/2006

NALGONDA SRINIVASA RAO & ORS.

Petitioner(s)

VERSUS

DR. B. KISHORE & ANR.

Respondent(s)

WITH

CONMT.PET.(C) No. 1950/2017 in C.A. No. 5101/2006

MA 638/2017 in C.A. No. 5100/2006

CONMT.PET.(C) No. 1952/2017 in C.A. No. 5099/2006

CONMT.PET.(C) No. 1701/2017 in C.A. No. 5099/2006

CONMT.PET.(C) No. 1702/2017 in C.A. No. 5099/2006

CONMT.PET.(C) No. 1951/2017 in C.A. No. 5101/2006

MA 284/2017 in C.A. No. 5099/2016

CONMT.PET.(C) No. 1810/2017 in C.A. No. 5099/2006

MA 637/2017 in C.A. No. 5101/2006

CONMT.PET.(C) No. 1703/2017 in C.A. No. 5099/2006

CONMT.PET.(C) No. 406/2021 in C.A. No. 5099/2006 (@ out of Diary
No(s). 26117/2018

Diary No(s). 26647/2018

O R D E R

Permission to file Contempt Petitions is granted.

Applications for impleadment/intervention are allowed.

In M. Surender Reddy vs. Sate of Andhra Pradesh and Others reported in (2015) 8 SCC 410, the basic issue that arose for consideration was about the applicability of G.O.Ms dated

07.03.2002 ("2002 GO", for short) to selections which had already been initiated or started pursuant to advertisement in the year, 1999.

The questions which arose for determination were set out in paragraph 11 of the judgment as under:

"11. The questions that arise for determination in this case are:

(a) Whether GOMs No. 124 dated 7-3-2002 is retrospective in nature in order to make it applicable to the posts for which selection process has already started pursuant to 1999 advertisement; and

(b) If the said GOMs is retrospective, whether it is required to review the entire select list disturbing the appointments already made during the period between 2001 and 7-3-2002."

Reservation in favour of candidates coming from local areas in posts to various cadres was sought to be created by 2002 GO. Since the selection in the instant cases was already undertaken pursuant to advertisement issued in the year 1999, the question was whether such selection ought to be in conformity with the reservation for local candidates or independent of the requirements of 2002 GO.

After considering the entire controversy in the matter, the conclusions drawn by this Court, in paragraphs 28 to 31 of the judgment in *Surender Reddy*, were as under:

"28. In any case, the State Government cannot pass any order amending a procedural law regarding reservation in the matter of selection to posts, with retrospective effect, once the procedure of selection starts.

29. For the reasons aforesaid, we hold that GOMs No. 124 dated 7-3-2002 is prospective and is not applicable to the process of selection started pursuant to Advertisement No. 10 of 1999 including the 973 executive posts which were ordered to be filled up by the High Court pursuant to the advertisement. The Tribunal erred in directing APPSC to recast the merit list pursuant to GOMs No. 124 dated 7-3-2002. The High Court by the impugned judgment dated 27-12-2004¹ rightly held that the order passed by the Court will not affect the appointments already made to the executive post between 2001-2002 but erred in holding that the selection is to be made in accordance with GOMs No. 124 dated 7-3-2002.

30. For the reasons aforesaid, we set aside the orders passed by the Andhra Pradesh Administrative Tribunal and the impugned common judgment dated 27-12-2004¹ and the impugned common order dated 28-12-2004² passed by the Division Bench of the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petitions Nos. 20106 and 21558 of 2004, etc.

31. In view of the foregoing discussions, we direct the respondents to fill up the rest of the posts including the posts of Municipal Commissioners Grade III, Assistant Commercial Tax Officers, Assistant Labour Officers in executive cadre and Assistant Section Officers in non-executive cadre, which are vacant, as per the Presidential Order, 1975 and the government orders in consonance with the Presidential Order which were prevailing in the year 1999 when the advertisement was issued. The inter se seniority between the persons appointed in the first round and the persons appointed afterwards in the same cadre, if any, shall be decided by the appropriate authority in accordance with the rules, depending on the merit ranking obtained by them."

Paragraph 28 sets out the principle that the State Government could not pass any order amending the procedural law regarding reservation in the selection to posts, once the procedure of selection had started. This is a clear indication that the

1 2004 SCC OnLine AP 1028 : (2005) 2 An LT 9

2 WP Nos.20215 of 2004, order dated 28-12-2004 (AP), 2004 SCC OnLine AP 1028

process which was started or initiated prior in point of time would not be governed by the principles of reservation stipulated in 2002 GO. The observation in paragraph 29 clearly holds the applicability of 2002 GO to be prospective and the same thought is again made clear in paragraph 31 according to which even the rest of the posts or the posts that were lying vacant from the selection process already initiated before 2002 GO came into force, were required to be filled up in consonance with what was prevailing in the year 1999 when the advertisement was issued.

These paragraphs, in our view, are quite clear that everything that was initiated pursuant to the advertisement issued before or prior to 2002 GO, must be taken to the logical conclusion, in consonance with the then prevailing rules or regime when the advertisement was issued. This logic would apply even with respect to filling up of vacant or remaining posts from that selection. In other words, the principles emanating from said 2002 GO are not to be applied to such selection.

The instant contempt petitions are filed seeking enforcement of the directions issued by this Court in its judgment in *M. Surender Reddy vs. State of Andhra Pradesh*. Instead of getting into individual grievances highlighted in some of the contempt petitions or interim applications, in our view, a clarification issued hereinabove would serve the purpose.

It is submitted by Mr. Mahfooz Nazki as well as Mr. P. Venkat Reddy, learned advocates for the States of Andhra Pradesh and Telangana that both the States are implementing the decision in *Surender Reddy* in letter and spirit. According to Mr. Nazki,

selections initiated prior to the coming into force of 2002 GO, have to be undertaken without applying the principle of reservation emanating from said GO.

Some of the petitioners have invited our attention to the order dated 25.04.2018 passed by this Court while dealing with these contempt petitions and the interim applications. The entire order, for facility, is quoted here:-

"We see no ground for any clarification in the applications. The Court is clear made in its judgment dated 18.02.2015 that the appointments made after the Government Order No.124 dated 07.03.2002 only are to be disturbed.

However, we may note one submission that in the original selection also, there was an option to choose the non-executive posts even for candidates otherwise eligible to executive posts. Therefore, permit in the revision, incumbents, who pursuant are now to the occupying the non-executive posts, if they opt so, to continue in those posts.

In view of the above, the applications for clarification are dismissed.

We direct the Secretary to the Government to file the compliance report on or before Tuesday, the 15th May, 2018.

We also make it clear that those who find their names in the revised list, if they opt for appointment, shall be given appointment.

In case, the list has not been re-cast, yet, we direct the Andhra Pradesh Public Service Commission to revise the list in respect of all vacancies available and arising from 07.03.2002."

In our view, the order has to be understood in the light of the directions issued by this Court in paragraphs 28 to 31 of *Surender Reddy* and cannot be construed to mean that all the unfilled or remaining vacancies pertaining to the selection initiated before 2002 G.O. came into force must now be filled up in

accordance with the principles emanating from said G.O.. The directions issued in *Surender Reddy* are quite clear.

Consequently, there would be no occasion to recast any selection list or revise a list pertaining to the selection undertaken pursuant to advertisement issued before 2002 GO had come into force.

With the aforesaid clarification, all these contempt petitions and interim applications are disposed of.

Pending applications, if any, also stand disposed of.

.....J.
(UDAY UMESH LALIT)

.....J.
(AJAY RASTOGI)

New Delhi;
July 14, 2021.

Item NO.4 Court 3 (Video Conferencing) SECTION XII-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

CONMT.PET.(C) No. 1700/2017 in C.A. No. 5099/2006

NALGONDA SRINIVASA RAO & ORS.

Petitioner(s)

VERSUS

DR. B. KISHORE & ANR.

Respondent(s)

(Impleading party ON IA 70059/2017 and IA No.133928/2017-impleading party

IA No. 73602/2019 - CLARIFICATION/DIRECTION
IA No. 100457/2018 - INTERVENTION APPLICATION
IA No. 73599/2019 - INTERVENTION/IMPLEADMENT
IA No. 124920/2018 - INTERVENTION/IMPLEADMENT
IA No. 124913/2018 - INTERVENTION/IMPLEADMENT
IA No. 133928/2017 - INTERVENTION/IMPLEADMENT
IA No. 70059/2017 - INTERVENTION/IMPLEADMENT)

WITH

CONMT.PET.(C) No. 1950/2017 in C.A. No. 5101/2006 (XII-A)

(IA No. 69704/2018 - CLARIFICATION/DIRECTION

IA No. 69699/2018 - CLARIFICATION/DIRECTION

IA No. 98906/2018 - CLARIFICATION/DIRECTION

IA No. 97272/2018 - CLARIFICATION/DIRECTION

IA No. 96997/2018 - INTERVENTION/IMPLEADMENT

IA No. 96996/2018 - INTERVENTION/IMPLEADMENT

IA No. 68942/2018 - INTERVENTION/IMPLEADMENT

IA No. 98904/2018 - INTERVENTION/IMPLEADMENT

IA No. 68935/2018 - INTERVENTION/IMPLEADMENT

IA No. 97269/2018 - INTERVENTION/IMPLEADMENT

IA No. 97268/2018 - INTERVENTION/IMPLEADMENT)

MA 638/2017 in C.A. No. 5100/2006 (XII-A)

(IA No. 75571/2017 - CLARIFICATION/DIRECTION)

CONMT.PET.(C) No. 1952/2017 in C.A. No. 5099/2006 (XII-A)

CONMT.PET.(C) No. 1701/2017 in C.A. No. 5099/2006 (XII-A)

CONMT.PET.(C) No. 1702/2017 in C.A. No. 5099/2006 (XII-A)

CONMT.PET.(C) No. 1951/2017 in C.A. No. 5101/2006 (XII-A)

(IA No. 98514/2018 - INTERVENTION/IMPLEADMENT)

MA 284/2017 in C.A. No. 5099/2016 (XII-A)

(IA No. 77709/2017 - CLARIFICATION/DIRECTION

IA No. 73241/2017 - CLARIFICATION/DIRECTION

IA No. 77697/2017 - I/A FOR PERMISSION TO FILE IMPLEADMENT PETITION

IA No. 77699/2017 - INTERVENTION/IMPLEADMENT)

CONMT.PET.(C) No. 1810/2017 in C.A. No. 5099/2006 (XII-A)

MA 637/2017 in C.A. No. 5101/2006 (XII-A)
(IA No. 75550/2017 - CLARIFICATION/DIRECTION)

CONMT.PET.(C) No. 1703/2017 in C.A. No. 5099/2006 (XII-A)

Diary No(s). 26117/2018 (XII-A)
(IA No. 97585/2018 - APPLICATION FOR PERMISSION TO FILE CONTEMPT PETITION)

Diary No(s). 26647/2018 (XII-A)
(FOR impleading party ON IA 100085/2018
FOR INTERVENTION/IMPLEADMENT ON IA 100085/2018
FOR impleading party ON IA 100088/2018
IA No. 100088/2018 - INTERVENTION/IMPLEADMENT
IA No. 100085/2018 - INTERVENTION/IMPLEADMENT)

Date : 14-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE AJAY RASTOGI

For Parties:

Mr. Gurukrishna Kumar, Sr. Adv.

Mr. M. Vijaya Bhaskar, AOR

Mr. Tanmaya Agarwal, AOR

Ms.V. Mohana, Sr. Advocate

Ms. Mahalakshmi Pavani, Sr. Advocate

Mr. Sadineni Ravi Kumar, AOR

Mr. Venkateswara Rao Anumolu, AOR

Dr. K. Lakhmi Narshima, Advocate

Mr. V. Ramesh, Advocate

Mr. Chandan Kumar Mandal Advocate

Mr. Shekhar Kumar, AOR

Mrs. Anjani Aiyagari, AOR

Mrs. M.V.Rama, Adv.

Mr. Abhijit Sengupta, AOR

Mr. P. Venkat Reddy, Adv.

Mr. Prashant Tyagi, Adv.

Mr. P. Srinivas Reddy, Adv.
M/S. Venkat Palwai Law Associates, AOR

Mr. Guntur Prabhakar, AOR

Mr. Mahfooz Ahsan Nazki, AOR

Mrs. D. Bharathi Reddy, AOR

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

Permission to file Contempt Petitions is granted.

Applications for impleadment/intervention are allowed.

The contempt petitions and interim applications are disposed
of in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)