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Andhra Pradesh: SC Scraps 100% Reservation in Scheduled Areas, Fueling Debate



A government order had provided absolute reservation in teaching jobs for Scheduled Tribes in the scheduled areas.

Vijayawada: The Supreme Court's judgement against 100% reservation of teachers of the Scheduled Tribes (ST) in primary schools located in the Scheduled Areas brings to the fore a debate over the prospects of the interests of Adivasis

protected under the Fifth Schedule of the Constitution coming in conflict with that of the other categories within the quota system.

A five-judge constitution bench led by Justice Arun Mishra on April 22 struck down a government order issued by Andhra Pradesh governor Biswabushan Harichandan which had provided absolute reservation for members of the STs for teaching jobs in the scheduled areas. The apex court has also reiterated the Indra Sawhney vs Union of India judgement, which capped reservations at 50%. The issue has reached the Supreme Court after an appeal was filed against the Andhra Pradesh high court ruling which had upheld the government order providing for 100% reservations for tribal teachers in the Scheduled Areas. The five-judge constitution bench has also interpreted its judgement prospectively not “retrospectively” and held that the existing appointments made in excess of 50% reservation shall survive but shall

cease to be effective in the future, providing relief to the tribal teachers who have already been appointed.

One Chebrolu L. Prasad had filed an appeal against the high court order contending that the governor's order was discriminatory since it affected not only the open category candidates but also the other reserved categories' candidates and reservation under Article 16 (4) of the Constitution shall not exceed the 50% cap.

The bench, also comprising Justices Indira Banerjee, Vineet Saran, M.R. Shah and Ravindra Bhat, observed:

“100% reservation would amount to unreasonable and unfair and cannot be termed except as unfair and unreasonable. Thus we are of the considered opinion that providing 100 % reservation to the Scheduled Tribes and Scheduled Castes were not permissible. The Governor in the exercise of

the power conferred by para 5(1) of the Fifth Schedule of the Constitution cannot provide 100% reservation.”

The bench further ruled, “By providing 100 percent reservation to the Scheduled Tribes has deprived the Scheduled Castes and the Other Backward Classes (OBCs) also of their due representation. It also impinges upon the right of open category and scheduled tribes who have settled in the Scheduled Areas after January 26, 1950. The rights of the Scheduled Tribes who are not residents of the scheduled areas shall also be adversely affected if the impugned order is allowed to become operational.”