

ITEM NO.6

COURT NO.11

SECTION IVA

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

Petition(s) for Special Leave to Appeal (C) No(s). 24994/2016

(Arising out of impugned final judgment and order dated 23/03/2016 in WP No. 42475/2015 passed by the High Court Of Karnataka At Bangalore)

SIDDARAJU

Petitioner(s)

VERSUS

STATE OF KARNATAKA AND ORS.

Respondent(s)

(With appln. (s) for c/delay in filing SLP and interim relief and office report)

Date : 03/02/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Ms. Jayna Kothari, Adv.
Ms. Shampa Nath, Adv.
Mr. Rohan Kothari, Adv.
Ms. Rukhsana Choudhury, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Ms. Binu Tamta, Adv.
Mr. Shekhar Vyas, Adv.
Mr. Arun Pathak, Adv.
Mr. M.K. Maroria, Adv.

Mr. V. N. Raghupathy, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay condoned. Leave granted.

Question which has arisen in this case is whether persons, governed under "The persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995", can be given reservation in promotion. A view has been taken by this Court in Rajiv Kumar Gupta & Others v.

Union of India & Others - (2016) 6 SCALE 417 in the affirmative.

Mr. Ranjit Kumar, learned Solicitor General, points out that the prohibition against reservation in promotion laid down by the majority in Indra Sawhney & Others v. Union of India & Others - (1992) Supp. 3 SCC 215 applies not only to Article 16(4) but also 16(1) of the Constitution of India and inference to the contrary is not justified.

Persons suffering from disability certainly require preferential treatment and such preferential treatment may also cover reservation in appointment but not reservation in promotion. Section 33 of the 1995 Act is required to be read and construed in that background.

We find merit in the contention that the matter needs to be considered by the larger Bench.

Accordingly, we direct the matter be placed before Hon'ble the Chief Justice for appropriate orders.

Union of India is at liberty to file its affidavit within one week from today.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER