

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 7028/2024

(Arising out of impugned judgment and order dated 02-08-2023 in WP No. 46176/2022 passed by the High Court for the State of Telangana at Hyderabad)

THE COMMISSIONER AND DIRECTOR OF SCHOOL EDUCATION Petitioner(s)

VERSUS

CHINTA NATARAJ & ORS.

Respondent(s)

(IA No.94881/2024-CONDONATION OF DELAY IN FILING and IA No.94880/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.94886/2024-CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS and IA No.94884/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-04-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Dama Seshadri Naidu, Sr. Adv.  
Ms. Devina Sehgal, AOR  
Mr. S. Uday Bhanu, Adv.  
Mr. Gursimar Singh, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

1. Delay condoned.
2. Heard Mr. Dama Seshadri Naidu, learned senior counsel appearing for the petitioner.
3. The counsel would refer to the notification issued on 06.12.2021 (Annexure P/1) by the General Administration Department, Government of Telangana to point out that preference for allocation

## VERDICTUM.IN

of posting upon bifurcation of the State of Andhra Pradesh and Telangana is a mammoth exercise. So in order to make a fair consideration for those who might be in need for a particular place of posting on account of medical and other grounds, Clause 22 of the Appendix attached to the notification covers the same. The Allotment Committee is required to consider the seniority of the concerned incumbent and then work out the criteria of giving preference to those suffering certain degree of disability.

4. The benchmark disability is prescribed at 70% for those otherwise covered by The Rights of Persons with Disabilities Act, 2016 ("2016 Act"). It is then submitted by the learned senior counsel that a large number of disabled people particularly in the Education Department have secured appointment under the erstwhile The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("1995 Act"). Therefore, the higher benchmark criteria of 70% disability, had to be prescribed in the State of Telangana for preferential allotment by the Allotment Committee. If such a higher benchmark criteria is not stipulated (above the 40% prescribed in the 1995 Act), most benefit of preferential allotment will be captured by those who are covered under the 1995 Act and all the others with equally pressing needs, will not get any consideration although their needs in comparison, may be much more pressing.

5. It is further submitted that the 1995 Act (now 2016 Act) primarily deals with recruitment and has nothing to do with the posting of a disabled category person as is evident from Section

## VERDICTUM.IN

20(5) of the 2016 Act.

6. Issue notice, returnable in four weeks.

7. In the meantime, the impugned order is stayed.

(NITIN TALREJA)  
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR