

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

***THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

and

***THE HON'BLE SRI JUSTICE M. GANGA RAO**

+Writ Appeal No.1850 of 2017

Between:

#Macharla Suresh, S/o M. Ramaswamy, aged 34 years,
Occ: Student, R/o H.No.9-2-86, FCI Road, Jammikunta
Village and Mandal, Karimnagar District

... Appellant

Vs.

The State of Telangana, represented by its
Principal Secretary, Home Department, Secretariat
Buildings, Hyderabad and 5 others

.. Respondents

! For Appellant

: Mr. Srinivasa Rao Madiraju

^For Respondents

: G.P. for Home (Telangana)
Mr. K. Buchi Reddy, for R-3 to R-5

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE M. GANGA RAO

Writ Appeal No.1850 of 2017

ORDER: (V. Ramasubramanian, J)

Aggrieved by the dismissal of a Miscellaneous Application for stay of the final results of selection to the post of Sub-Inspector of Police, the writ petitioner has come up with the above writ appeal.

2. Heard Mr. Srinivasa Rao Madiraju, learned counsel for the appellant.

3. The issue raised by the appellant herein before the learned single Judge is as to whether a person, who is more meritorious than him, but who comes at a secondary level in the order of preference among NCC candidates entitled to reservation, can be selected for appointment overlooking the order of preference given for candidates for whose benefit such a reservation is created. It appears that a few persons, who are holding B-Certificates in NCC, have now been included in the select list, overlooking the claim of the appellant, who holds a C-Certificate in NCC. The rule of reservation for NCC candidates clearly shows that a C-Certificate holder will have preference over a B-Certificate holder. Therefore, the claim with which the appellant went before the learned single Judge was that when reservations of such nature are applied, the preferential order prescribed in the rule of reservation cannot be violated on the ground that a person, who is of lesser preference is more meritorious.

4. While admitting the writ petition, the learned Judge dismissed the Miscellaneous Petition for grant of stay. Therefore, the appellant is before us.

5. The main writ petition challenges the inclusion of the names of the respondents 3 to 6 herein in the select list. Whenever a select list is challenged, the question of grant of interim stay of the select list would not arise, as the same may put appointments on hold. We do not test merely the existence of a *prima facie* case at that stage, but also test the other parameters. Time and again, the Supreme Court has cautioned that the Courts cannot stay appointments and the promotions.

6. Therefore, the writ appeal is dismissed. It is made clear that the unofficial respondents cannot claim any equity in the matter of appointment, in the event of the appellant succeeding in the writ petition.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

Date: 06-12-2017

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