

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2017

DELIVERED ON : 01.11.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.Nos.2317 and 2318 of 2009
and

M.P.Nos.2 and 2 of 2009

W.P.No.2317 of 2009:

A.Sivakumar

.. Petitioner

vs

1.The Chief Secretary to Government-cum-
Chairman,
Pondicherry Society for Higher Education,
PIPMATE Complex, Lawspet,
Puducherry.

2.The Pondicherry Society for Higher Education,
rep. by its Member Secretary,
PIPMATE Complex, Lawspet,
Puducherry.

3.C.Vetrichelvi

4.S.Sridhar

5.T.Anbuchelvan

6.N.Saravanan

7.T.Amudhan

8.G.Savundharavallli @ Sudha

9.R.Vishalakshi

.. Respondents

W.P.No.2318 of 2009:

A.Perumal

.. Petitioner

vs

1.The Chief Secretary to Government-cum-Chairman,
Pondicherry Society for Higher Education,
PIPMATE Complex, Lawspet,
Puducherry8.

2.The Pondicherry Society for Higher Education,
rep. by its Member Secretary,
PIPMATE Complex, Lawspet,
Puducherry-8.

3.J.Chalapathi Rao

4.P.Sadish

5.J.Prabakaran

6.Charles Christopher Raj

7.S.S.Ramajayam

.. Respondents

(R7 impleaded as per order dated 17.8.2017
in M.P.No.1 of 2013)

Writ Petition No.2317 of 2009 filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the 2nd respondent with No.249/PONSHE/Estt./E1/2008-2009 dated 22.1.2009 in respect of the selection of the respondents 3 to 9 for the post of Lecturer in Tamil and to quash the same and consequently to direct the respondents 1 and 2 to consider and appoint the petitioner to the post of Lecturer in Tamil in the quota reserved for Scheduled Case candidate with all other consequential benefits including seniority and difference of wages from the date of appointment of other candidates.

Writ Petition No.2318 of 2009 filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the 2nd respondent with No.249/PONSHE/Estt./E1/2008-2009 dated 22.1.2009 in respect of the selection of the respondents 3 to 6 for the post of Lecturer and to quash the same and consequently to direct the respondents 1 and 2 to appoint the petitioner to the pst of Lecturer in History in the quota reserved for Scheduled Caste candidate with all other consequential benefits including seniority and difference of wages from the date of appointment of other candidates.

For Petitioners : Mr.V.Ajayakumar
in W.P.No.2317/2009

Mr.P.V.S.Giridhar
in W.P.No.2318/2009

(In both the WPs) : Mr.T.P.Manoharan
For Respondents Senior Counsel
for Mr.Jotheeswaran
for R1 & R2
V.Govardhana for
M/s.Row & Reddy
for R5 & R6

COMMON ORDER

These writ petitions have been filed by the petitioners seeking a writ of certiorarified mandamus calling for the records of the 2nd respondent with No.249/PONSHE/Estt./E1/2008-2009 dated 22.1.2009 and to quash the same and consequently to direct the respondents 1 and 2 to consider and appoint the petitioners to the post of Lecturer in Tamil and Lecturer in History respectively in the quota reserved for Scheduled Case candidate with all other consequential benefits including seniority and difference of wages from the date of appointment of other candidates.

2. Since the challenge made in the writ petitions is one and the same, both the writ petitions were heard together and disposed of by this common order.

W.P.No.1237 of 2009

3. The case of the petitioner in W.P.No.1237 of 2009 is that the 2nd respondent issued a notification dated 7.8.2017 calling for applications for filling up of 28 vacancies, including the faculty in Tamil, and the qualification prescribed for appointment to the post of Lecturer is Master's Degree in the concerned subject or equivalent with at least 55% marks and National Eligibility Test (NET), conducted by the UGC in the concerned subject or equivalent or M.Phil or Ph.D in the concerned subject or equivalent. The petitioner was fully qualified and eligible for appointment to the post of Lecturer. The notification stipulates that those candidates who were having continuous residence in the Union Territory of Puducherry

for the last 5 years as on 31.8.2017 were eligible to apply for the said post. The notification further stipulates that the candidates from other States/Union Territories will be considered only if sufficient number of eligible candidates were not available from among the residents of Puducherry. The petitioner applied for the said post and was called for the selection process as well. While so, on 22.1.2009, the respondents 1 and 2 affixed in the notice board that in the faculty of Tamil, 8 candidates were selected (3 in the un-reserved category; 5 in the OBC category). According to the petitioner, out of 8 candidates not even a single Schedule Caste candidate was selected in the faculty of Tamil.

4. The case of the petitioner is that in the Union Territory, there was no Scheduled Tribe population and also there was no Presidential Order under Article 342 of the Constitution of India regarding Scheduled Tribe category and therefore, the vacancies which were notified for the S.T. Category have to be filled up with Scheduled Caste candidates and hence, out of 15 Schedule Caste vacancies, the faculty of Tamil ought to have been given sufficient share of reservation.

5. As per the revised reservation rules issued by the Government of India on 2.7.1997 the seventh vacancy must be filled up with Scheduled Caste candidate. Out of 33 vacancies, 15 were given for SC/ST candidates which itself means that out of 8 candidates in the faculty of Tamil, 4 vacancies ought to have been filled with SC candidate. In the entire reservation quota provided in the notification only one OBC vacancy has been notified, whereas the respondents 1 and 2 have issued a select list which contains 5 OBC candidates which itself is in total violation of the Rule of Reservation. Hence, the entire select list in the faculty of Tamil was liable to be quashed.

6. Resisting the writ petition, the second respondent filed counter stating that only after publication of the notice and notification dated 22.7.2008 relating to the numbers and the method of reservation to be made for UR, OBC, SC & ST categories, the petitioner has accepted the said method and submitted his application for recruitment on 7.8.2008. If really the said reservation was not in accordance with law and he was aggrieved over the same, he could have easily filed a writ petition challenging the said reservation and got the same corrected. However, he has not done so and kept quite all along. The petitioner has not given any representation to the 2nd respondent and hence, the contrary claim made by him was incorrect. Therefore, the claim made by the petitioner to the effect that 4 vacancies in the post of Lecturer in Tamil has to be filled by SC candidates was incorrect and contrary to the Model Roster of Reservation. The writ petition has been filed after the publication and coming into effect of selection list.

Therefore, the writ petition has been filed clearly an afterthought and is hit by the doctrine of laches.

W.P.No.2318 of 2009

7. The case of the petitioner in W.P.No.2318 of 2009 is that on 7.8.2007, the 2nd respondent issued a notification calling for application for filling up of 28 vacancies of Lecturers from among the qualified candidates, who were the residents of U.T. of Puducherry. The candidates from other States/U.T. will be considered only if sufficient number of eligible candidates were not available from among the residents of Puducherry. The 2nd respondent notified one vacancy in the faculty of History and the said vacancy was notified as reserved vacancy for SC candidate of Puducherry. The petitioner applied for the post of Lecturer in History and he was called for certificate verification. The petitioner also participated in the interview conducted by the authorities. However, he was not selected. According to the petitioner, the official respondents have not followed the rule regarding reservation and therefore, the entire select list was liable to be quashed.

8. Resisting the petition, the 2nd respondent filed counter stating that they had issued notification dated 7.8.2007, inviting applications from eligible candidates for recruitment to 28 vacancies in the post of Lecturers on regular basis in various disciplines on All India basis. The 2nd respondent was making recruitment to the cadre of Lecturers including for the discipline of History on All India basis through open competition. In the post of Lecturer in History, 3 vacancies were already existing and 2 vacancies are expected to arise due to the resignation of 2 Lecturers holding the posts reserved for OBC category i.e., in total 5 vacancies. The 2nd respondent received 72 applications including the applications received from the candidates from the other States/U.T. It is stated that out of 632 applications received, 491 candidates, including 72 candidates submitted their applications for recruitment to the vacancies in the discipline of History, have written the written examination conducted on 28.9.2008. Based on the marks obtained by them, a short list containing 217 candidates has been prepared and they were called for personality/practical test. Lot of candidates, including the 3rd respondent (SC), P.Vijayarangam (SC) and the 4th respondent (UR) selected in the discipline of History have already joined duty and working. According to the 2nd respondent, the petitioner has secured only 4th rank among the SC candidates applied for the post of Lecturer in History. Even if the appointment of the 3rd respondent made under the SC category was quashed, only the person placed rank No.3 along with SC candidates viz., S.S.Ramajayam can be selected and recruited to the vacancy arising out of the same and not the petitioner.

9. Assailing the impugned order, the learned counsel for the petitioner in W.P.No.2317 of 2009 contending that out of 33 vacancies 15 vacancies were notified for SC/ST category and the same will have to be proportionately distributed to all the faculty and if so out of 8 candidates in the select list at least 4 SC candidates must be selected, but the entire list was consisting of OBC candidates. He would submit that only one vacancy was notified in the OBC category, whereas the impugned select list contains 7 OBC candidates which was in total violation of the notification and was illegal.

10. The learned counsel further submitted that as per the Rule Regarding Reservation, the 7th vacancy has to be filled up with SC candidate and that Rule also not followed by the official respondents. The 2nd respondent was bound to notify all the backlog vacancies and to fill it up from the SC category. The respondents 1 and 2 cannot fill up the vacancies over and above the vacancies which were notified and therefore, the entire select list in the faculty of Tamil was liable to be quashed as only one vacancy has been notified in the faculty of Tamil.

11. Challenging the impugned order, the learned counsel for the petitioner in W.P.No.2318 of 2009 submitted that the petitioner was a member of SC category of Puducherry origin and he is entitled to get the reservation in the case of appointment. He would submit that pursuant to the notification dated 7.8.2007 issued by the 2nd respondent, the petitioner had applied for the post of Lecturer History and he was also called for certificate verification, followed with personal test. The petitioner was awarded with 70 marks in the written test, however, he was not selected in the selection process. In the selection list published by the 2nd respondent, the 2nd respondent published the names of 5 candidates out of which 3 persons were shown as selected candidates and 2 persons were selected towards anticipated vacancies.

12. The learned counsel submitted that the total vacancies notified were 3 (1 in General and 2 in SC category). Out of 3 selected candidates, the 3rd respondent was the candidate by virtue of merit. One P.Vijayarangam alone was selected against SC vacancy and the selection of the 4th respondent was not legally sustainable as he belongs to BC category. The 5th and 6th respondents were belong to BC category. Thus, without following the Rule Regarding Reservation, the 2nd respondent selected the persons and therefore, the same is liable to be quashed.

13. Per contra, the learned Senior Counsel for the respondents 1 and 2 submitted that the petitioner in W.P.No.2317 of 2018 having accepted the notification and submitted

application for recruitment to the post of Lecturer in the discipline Tamil and having not been selected in the selection process is estopped from challenging the same on any ground. He would submit that the petitioner has filed the writ petition only after the publication of the results and after coming into effect the selection list.

14. Insofar as W.P.No.2318 of 2018 is concerned, the learned Senior Counsel contended that the 2nd respondent issued notification for recruitment to the post of Lecturers, including for the discipline of History on All India basis through open competition. In the post of Lecturer in History, 3 vacancies were already existing and 2 vacancies were expected to arise due to the resignation of 2 Lecturers holding the posts reserved for OBC category i.e., in total 5 vacancies. He would further submit that out of 632 applications received, 491 candidates, including 72 candidates submitted their applications for recruitment to the vacancies in the discipline of History and conducted written examination. Based on the marks obtained by the candidates, a short list containing 217 candidates has been prepared and they were called for personality/practical test and based on the recommendations made by the recruitment committee and aggregate of marks secured by the candidates in the written test and in the practical test, the 2nd respondent prepared and published a selection list on 22.1.2009 consisting of 45 candidates, including 5 candidates for the 5 existing/expected vacancies in the discipline of History. Therefore, there was no flaw in the recruitment process.

15. The learned counsel for the respondents 5 and 6 submitted that there was no violation in the recruitment process and the respondents 5 and 6 having selected and got the appointment order, joined the duty and were working in the respective posts. The learned counsel further submitted that the writ petitions have been filed with incorrect particulars. Moreover, the writ petitions are hit by doctrine of laches.

16. The 2nd respondent issued a notification dated 7.8.3007 calling for applications from the eligible persons for filling up the post of Lecturer in various disciplines to work in the Arts and Science Colleges functioning under the aegis of the 2nd respondent. Paragraph 3 of the notification dated 7.8.2007 provides as under:

"3.The candidates who are the natives of the UT of Puducherry or who have continuous residence in the UT of Puducherry for the last 5 years as on 31.08.2007 are eligible to apply for the post. They should produce the required certificate issued by an Office of the Revenue department not below the rank of Deputy Tahsildar (i.e. certificate of Nativity of Birth or Certificate of Residence

obtained on or after 31.08.2006 should be produced). In case of candidates whose parents/spouse are employed in the Government of Puducherry, a Service Certificate from the Head of Department/Office may be produced for the purpose of Nativity or Residence."

17. According to the petitioners, the 2nd respondent issued notification dated 7.8.2007 calling for application for filling up of 28 vacancies of Lecturers in the pay scale of Rs.8000-13500 from among the qualified candidates who are the residents of U.T. of Puducherry. The petitioners were residents of Puducherry. They have not been appointed though they were called for certificate verification and personal test.

18. It is the say of the petitioner in W.P.No.2317 of 2018 is that the office of the 2nd respondent published the selection list, wherein it has been stated that in the faculty of Tamil, 8 candidates were selected - 3 in the unreserved category; 5 in the OBC category. It was contended that out of 8 candidates not even a single SC candidate was selected in the faculty of Tamil. When the petitioner enquired, he was informed that the 2nd respondent issued a revised notification dated 22.7.2008 and in that revised notification only one vacancy was notified in the faculty of Tamil. It was further notified that one vacancy was reserved for OBC category; 10 for SC category and 5 for ST category and the above reservation has been provided for all the faculties. Thus, the grievance of the petitioner is that since 8 candidates were selected in the faculty of Tamil, the respondents 1 and 2 ought to have given reservation to the SC candidates in the faculty of Tamil, whereas not even a single SC candidate was selected in the faculty of Tamil.

19. On the other hand, it was contended by the respondents 1 and 2 that based on the marks obtained by the candidates, a short list containing 217 candidates has been prepared and they were called for personality test and based on the recommendations made by the Recruitment Committee and the aggregate of marks secured by the candidates in the written test and in the personality test, the 2nd respondent prepared and published the selection list on 22.1.2009 consisting of 45 candidates, including 8 candidates for the 8 anticipated replacement vacancies in the discipline of Tamil i.e. 3 candidates under UR category and 5 candidates under OBC category. In fact the candidates have joined duty and were working in the posts.

20. Similarly, it is the say of the petitioner in W.P.No.2318 of 2009 is that the 2nd respondent published selection list dated 22.1.2009, in which the names of 5 candidates have been given, out of which, 3 persons were shown

as selected candidates and 2 persons were selected towards anticipated vacancies. The total vacancies notified were 3 (1 in the General and 2 in the SC category). Out of 3 selected candidates, 3rd respondent Chalapathy Rao was the candidate with highest marks and he was selected against the General candidate by virtue of his merit. One P.Vijayarangam alone was selected against SC vacancy and 4th respondent P.Sadish belongs to BC category and he was not selected against the SC vacancy at all and his selection was not legally sustainable. The other two candidates viz., respondents 5 and 6 belong to BC category. Therefore, the official respondents have not followed the Rule Regarding Reservation and the entire selection list warrants interference.

21. According to the respondents 1 and 2, out of 632 applications received, 491 candidates including 72 candidates submitted their applications for recruitment to the vacancies in the discipline of History. Based on the marks in the written examination, a short list containing 217 candidates has been prepared and based on the recommendations made by the Recruitment Committee, the 2nd respondent published a selection list dated 22.1.2009 consisting of 45 candidates, including 5 candidates for the 5 existing/expected vacancies in the discipline of History. Some of the candidates selected have joined duty and were working.

22. Both the petitioners contend that they are residents of Puducherry at the relevant point of time and they belong to SC community and were entitled to get the benefit of reservation. In the impugned select list though faculty of Tamil 8 candidates were selected, not even a single SC candidate was selected.

23. According to the petitioner in W.P.No.2317 of 2009, in the U.T. of Puducherry, there was no ST population and also there was no Presidential order under Article 342 of the Constitution of India qua ST category and therefore, vacancies which were notified for the ST category has to be filled up with SC candidates as per the pronouncement of the decision of a Division Bench of this Court in various cases. Hence, out of 15 SC vacancies, the faculty of Tamil ought to have been given sufficient share of reservation.

24. It is trite law that the unsuccessful candidates cannot challenge the selection process having participated in the selection process duly agreeing to the terms stipulated therein. However, it is to be stated that by non-following the correct rule of reservation, the respondents 1 and 2 have selected the candidates and in the above line, the petitioners have challenged the selection process. Since there is no dispute that there is no ST population in the Union Territory of Puducherry, SC candidates should have been considered for the

vacancies reserved for ST, in which event, definitely, the petitioner in W.P.No.2317 of 2009 would have been selected. Therefore, it cannot be said that the petitioner in W.P.No.2317 of 2009 is not entitled to challenge his non-selection.

25. It is also to be held that a person, who is recognised as a member of ST/SC in his original State will be entitled to all the benefits under the Constitution in that State alone.

26. Indian constitution stresses the concept of equality as its ultimate objective. The preamble of Constitution is determined to secure the citizens, "Justice in social, economic and political interests and equality of status and opportunity". Article 16(1) speaks of equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. This equal opportunity is not possible in a society where the people have divided into various castes and sub-castes on the basis of ritual status. The social equilibrium become disastrous since the ritual status forms the base for the monopoly of some castes in political and economic power and in turn it resulted in unequal status and power among the different caste and sects.

27. The Fundamental Rights lay emphasis on merit of an individual, at the same time the special provisions in the Fundamental Rights along with the Directive Principles emphasize the need based discrimination in favour of under-privileged groups. The controversy on reservation is itself an issue of 'rights'. It can be summarized that 'those who are opposed to it end to dwell more on the rights of individuals, whereas those in favour speak more of the rights of castes and communities.

28. Indian constitution provides a free hand to the State in making preferential schemes for the Scheduled Castes and Scheduled Tribes. The main objective of providing reservations for the Scheduled Castes and Scheduled Tribes in civil posts and services of the government and legislatures is to increase their representation. It is an attempt to uplift those people socially and educationally so as to enable them to find a place themselves in the society. With this in view, the Constitution envisages in the Directive Principles of State Policy to promote the economic and educational development of the weaker sections.

29. Social justice may be defined as the protection of historically underprivileged groups by the State through offering equal opportunities to ensure quality in the society. It is the soul force of supreme law. Social justice is aimed to bring justice by removing the injustice that have been meted out to those sectors for more than two thousand years. To say precisely it is the balancing wheel between the haves and have-nots.

30. In the case on hand, out of 33 vacancies, 15 vacancies were notified for SC/ST category and the same has to be proportionately distributed to all the faculty and if so out of 8 candidates in the select list at least 4 SC candidates ought to have been selected. But the entire list was consisting of OBC candidates, which is arbitrary and discriminatory.

31. It is apposite to mention that only one vacancy was notified in the OBC category, whereas the impugned select list contains 7 OBC candidates, which was in total violation of the notification.

32. The Hon'ble Supreme Court in Prem Singh and Ors. v. Haryana State Electricity Board reported in (1996) 4 SCC 319 at paragraph 25 held as follows:

"From the above discussion of the case-law it becomes clear that the selection process by way of requisition and advertisement can be started for clear vacancies and also for anticipated vacancies but not for future vacancies. If the requisition and advertisement are for a certain number of posts only the State cannot make more appointments than the number of posts advertised, even though it might have prepared a select list of more candidates. The State can deviate from the advertisement and make appointments on posts falling vacant thereafter in exceptional circumstances only or in an emergent situation and that too by taking a policy decision in that behalf. Even when filling up of more posts than advertised is challenged the Court may not, while exercising its extra-ordinary jurisdiction, invalidate the excess appointments and may mould the relief in such a manner as to strike a just balance between the interest of the State and the interest of persons seeking public employment. What relief should be granted in such cases would depend upon the facts and circumstances of each case."

However, since the appointments made pursuant to the notification have been implemented and the appointees are working all these years, at this stage, this Court does not feel it just and proper to pass any order against such appointees.

33. In the case on hand, as per the Rule regarding Reservation issued by the Government of India, the 7th vacancy has to be filled up with SC candidate and that Rule also not followed by the official respondents. Though number of backlog vacancies were available in the 2nd respondent Institution, the same have not been filled up. It is the bounden duty of the 2nd respondent to notify all the backlog vacancies and fill it up

from the SC category. The respondents 1 and 2 cannot fill up the vacancies over and above the vacancies which were notified. On this score, the entire select list in the faculty of Tamil is liable to set aside, as only one vacancy has been notified in the faculty of Tamil, whereas the select list contains 8 candidates. No convincing explanation is forthcoming from the official respondents in selecting 8 candidates contrary to the vacancy notified in the faculty of Tamil.

34. As far as the grievance of the petitioner in W.P.No.2318 of 2009 is concerned, the 3rd respondent is the candidate obtained highest marks and belongs to SC community, however, he is the resident of Andhra Pradesh and so his selection is in total violation of the notification issued by the 2nd respondent. Similarly, the 4th respondent belongs to BC category and the total number of vacancies notified were 3, out of which, 1 in General and 2 in SC category and therefore, BC candidate cannot be selected against the SC vacancy. As far as the selection of 5th and 6th respondents are concerned, they have been selected against the anticipated vacancies.

35. If at all the selection of the 3rd respondent is found to be valid, he has to be considered as the General candidate as he had obtained highest marks and therefore, he cannot be considered against the SC vacancy. The 4th respondent who belongs to BC category, cannot be selected against the SC vacancy. Like wise, the selection of 5th and 6th respondents against the anticipated vacancies also is not sustainable because when selecting SC candidates against the notified vacancies selecting the BC candidate against the anticipated vacancies is violation of the law regarding reservation.

36. Admittedly, in the case on hand, the official respondents have not produced any material to show that roster has been correctly followed. For an illustration, the 2nd respondent has notified 5 vacancies were to be filled up from among the ST candidates. Ear-marking vacancies for ST candidates is illegal as in U.T. of Puducherry there is no Presidential order under Article 342 of the Constitution of India.

37. As stated supra, when no ST population is available in the U.T. of Puducherry, vacancies ear-marked for ST candidates were to be filled up with SC candidates. Having obtained 70 marks in the written test and being a SC candidate of Puducherry, the petitioner in W.P.No.2318 of 2009 was not selected. The reasoning given by the official respondents in not selecting the petitioner in W.P.No.2318 of 2009 is not convincing and therefore, this Court finds that there is some force in the grievance of the petitioner.

38. As rightly submitted by the learned counsel for the petitioners when the posts are reserved for ST candidates and when there is no ST candidate, such posts have to be filled up by the next SC candidates and contrary to the above, the posts reserved for ST candidates were filled up with OBC candidates and such action of the respondents 1 and 2 is contrary to its own rules. Had the respondents 1 and 2 have considered the fact that there is not ST population and therefore, the SC candidates are to be considered, definitely, the petitioners would have got appointment to the post of Lecturers. The said aspect has not been considered by the official respondents in a proper perspective.

39. According to the respondents since the selection process was completed and as per the selection list, the candidates have joined duty and were working and, therefore, at this distant point of time, the selection list cannot be disturbed. We find some force in the arguments of the learned counsel for the respondents. However, as stated supra, the official respondents have not followed correct rule of reservation in this matter. It is the case of the petitioners that immediately, after seeking the selection list, they have given representation and the same was not accepted by the official respondents, which was the reason in filing the writ petitions. Since no material has been produced by respondents 1 and 2 to show that they have followed the rule of reservation and/or maintained correct roster, it is to be held that the denial of selection of the petitioners has to be re-considered by the respondents 1 and 2.

40. In view of the prima facie finding rendered by this Court, as above, categorically holding that the respondent authority had not justified the following of communal reservation policy, the facts of the present case are indisputably distinguishable from the facts of the cases relied on by either side and, therefore, this Court does not propose to deal with the same, as the law laid down in the said decisions is beyond any quarrel.

41. In the result, both the writ petitions are allowed, subject to the following directions:

- (i) The respondents 1 and 2 shall appoint the petitioners as Lecturer in Tamil and Lecturer in History respectively in any of the existing vacancies or by creating new vacancies under the Scheduled Caste category;
- (ii) Such orders shall be passed by the respondents 1 and 2 within a period of four weeks from the date of receipt of a copy of this order;
- (iii) It is made clear that the petitioners should be appointed in the existing vacancies or creating new

vacancies under the Scheduled Caste category prospectively and not retrospectively.

(iv) Since the private respondents/appointees in both the writ petitions have been working for over almost 10 years without any break in service, their appointments are not set aside, even though the notification and the final appointments made are not as per the posts advertised for each community and no proper communal reservation has been followed, as already observed by this Court;

(v) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

To

1.The Chief Secretary to Government-cum-Chairman,
Pondicherry Society for Higher Education,
PIPMATE Complex, Lawspet,
Puducherry.

2.The Pondicherry Society for Higher Education,
rep. by its Member Secretary,
PIPMATE Complex, Lawspet,
Puducherry.

+2cc to Mr.Jotheeswaran, Advocate sr.no.75124
+2cc to M/s.Row & Reddy, Advocate sr.no.75423
+1cc to Mr.V.Ajaykumar, Advocate sr.no.75065

W.P.Nos.2317 and 2318 of 2009
and
M.P.Nos.2 and 2 of 2009

nr 02/11/2018