

**Sr. No.120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 11902 of 2018(O&M)
Date of decision: 11.05.2018**

Hansa Singh

.....Petitioner

versus

Union of India and others

.....Respondents

**Coram: Hon'ble Mr. Justice Mahesh Grover
Hon'ble Mr. Justice Rajbir Sehrawat**

**Present: Mr. Balbir Singh Sewak, Advocate
for the petitioner(s).**

Mahesh Grover, J.(Oral)

This writ petition has been filed by the petitioner stating that there should be proper reservation in the State Legislative Assembly of Punjab for the Scheduled Castes considering the increase of population in various assembly segments. Reliance has been placed on Articles 330 and 332 of the Constitution of India. The same are extracted herein below:-

330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People:-

(1) Seats shall be reserved in the House of the People for

(a) the Scheduled Castes;

(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State [or Union territory] for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State [or Union territory] in the House of the People as the

population of the Scheduled Castes in the State [or Union territory] or of the Scheduled Tribes in the State [or Union territory] or part of the State [or Union territory], as the case may be, in respect of which seats are so reserved, bears to the total population of the State [or Union territory].

[(3)] *Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.]*

[Explanation – In this Article and in Article 332, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year [2026] have been published, be construed as a reference to the [2001] census.]

332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States:-

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, [except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause(1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved bears to the total population of the State.

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under Article 170, of the re-adjustment, on the basis of the first census after the year [2026], of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be, -

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

[(3-B) Notwithstanding anything contained in clause (3), until the re-adjustment, under Article 170, takes effect on the basis of the first census after the year [2026], of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.]

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

[Provided that for elections to the Legislative Assembly of the State of Assam the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing

prior to the constitution of the Bodoland Territorial Areas District, shall be maintained.]”

Learned counsel for the petitioner contends that appropriate reservation has not been provided which ought to have been done.

We have heard the matter and are of the opinion that we are unable to comment on the issue for lack of verifiable data with regard to the increase of population as stated by learned counsel for the petitioner.

Our attention has been invited to the order of the Hon'ble Supreme Court where the Scheduled Tribes alleged similar increase and prayed for inclusion in some of the constituencies and upon hearing the aggrieved in those proceedings, following directions were passed:-

“Accordingly, we dispose of the writ petition by directing the Election Commission of India, to consider the case of the Scheduled Tribes, as indicated in the writ petition and to take appropriate steps for their representation in the Lower Houses, both in the Parliament, as well as in the State Assemblies in accordance with the provisions of the Constitution. The petitioners will be at liberty to supply necessary details of the figures indicated to the Election Commission of India and the Election Commission may itself also obtain figures from the Registrar General, as suggested by the learned Attorney General and, thereafter, proceed to take steps in accordance with the provisions of the Constitution for due representation of the Scheduled Tribes population.

We also make it clear that we are not insisting that the exercise has to be completed before the elections are conducted since it has been definitely submitted that the exercise will

take at least about three months, but it will not also prevent the Election Commission from completing the exercise before the elections are held, without, however, disturbing the election schedule as declared.”

However, since the petitioner has made the representation to the concerned authorities namely, Election Commission of India and Registrar General and Census Commissioner, India on record as Annexure P-26, we would simply dispose of the petition with a direction to them to consider the representation of the petitioner and take appropriate decision thereon.

[MAHESH GROVER]
JUDGE

11th May, 2018
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>