

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5262 of 2017**

Khorbahara Ram Sahu S/o Shri Choturam Sahu Aged About 35 Years Posted As Teacher Panchayat, Government Pre Middle School, Karmari, Block Churiya, District Rajnandgaon, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
2. Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
3. Secretary, School Education Department, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
4. Zila Panchayat, Rajnandgaon, Through Chief Executive Officer, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
5. Jyoti Meshram Teacher (Panchayat), Government Girls Middle School, Manpur, District Rajnandgaon.
6. Savita Dhruve, Teacher (Panchayat), Government Pre Middle School, Village Fuljhar, District Rajnandgaon.
7. Chovaram Sudhakar, Teacher (Panchayat), Government Middle School, Village Sendawadih, District Rajnandgaon.

---- Respondents

For Petitioner	: Shri Anup Majumdar, Advocate.
For Respondent/State	: Smt. Fouzia Mirza, Additional Advocate General.
For Respondent No.4	: Shri Sushobhit Singh, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**27/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Yet another application where the decision of the State in bringing about a rule for providing reservation in promotion is under challenge. Some such cases came up before this Court and vide order dated 04.02.2019, the same were allowed and disposed off holding that since the Hon'ble Supreme Court, especially

Constitutional Bench had held such reservation in promotion to be unconstitutional, the case being **Jarnail Singh and others v. Lachhmi Narain Gupta and others** reported in **(2018) 10 SCC 396**, no further argument as such was left to be urged and the Rule 5 of the Chhattisgarh Public Services (Promotion) Rules, 2003 stood quashed.

3. We also take note of the fact that the Constitution Bench did not find anything drastically amiss with the earlier view taken by it in **M. Nagraj and others v. Union of India and others** reported in **(2006) 8 SCC 212**.

4. The writ application is allowed Rule 9 of the Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules, 2012 stand quashed with an observation that the State Government will have to take a call on such issue, but strictly within the framework of the Constitution Bench decision of the Hon'ble Supreme Court.

Sd/-
(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE