

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 3009 of 2016**

1. Dr. B.P. Soni, S/o. Shri Budhsen Soni, Aged About 52 Years, R/o. HIG 1, 49A, Narmada Nagar, Police Station Civil Lines, Bilaspur, Chhattisgarh.
2. Manoj Kumar Rai, S/o. Shri L.P. Rai, Aged About 58 Years, R/o. H2/127, Narmada Nagar, Police Station Civil Lines, Bilaspur, Chhattisgarh.
3. Rajesh Kumar Dixit, S/o. Shri Ram Gopal Dixit, Aged About 58 Years, R/o. H2/91, Narmada Nagar, Police Station Civil Lines, Bilaspur, Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh, Through The Principal Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Department Of Veterinary (Agriculture), Through Principal Secretary, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
3. Department Of School Education, Through Secretary, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh.
4. Water Resource Department, Through Secretary, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Arvind Shrivastava, Advocate
For State/ Respondents	:	Mrs. Fouzia Mirza, Addl. A.G.

Hon'ble Shri P.R.Ramachandra Menon, Chief Justice**Hon'ble Shri Goutam Bhaduri, Judge****Order On Board****Per P.R.Ramachandra Menon, C.J.****21.06.2019**

Heard

1. The present writ petition is filed with the following prayer :

(i) That, this Hon'ble Court may kindly be pleased to declare Rule 5 of C.G. Public Service (Promotion) Rule, 2003 as ultra virus because it provides for automatic reservation to SCs/STs, without fulfilling the condition laid down in case of M.Nagraj v. Union of India.

(ii) Declare the existing provisions- 2(b),(i),(j),5,6(12),6(13),6(14), 7(15),7(16) of the C.G. Public Service (Promotion) Rules 2003, relating to reservation, backlog vacancies, carry forward of backlog vacancies and the operation of roster, contained in the Rules 2003 and notification dated 26.11.2012 being run contrary to the constitutional provisions contained in Clause (4A) and (4B) of Article 16 and Article 335 of the Constitution and the law predicated in M.Nagraj (supra) be declared ultra virus and non-est in law.

(iii) That, the petitioners further pray that various promotion of SCs/STs category made on the basis of the Rules 2003 and the notification dated 26.11.2012 be declared to be non-est in the eyes of law and the person who are placed in the positions be reverted back as if the said rules never remain in existence and all actions taken in furtherance therefore must be reverted to status quo ante.

(iv) To grant any other relief(s)/order(s)/direction(s) in favour of petitioner, which may deem fit and proper in the facts and circumstances of the case, in the interest of justice.

(v) Cost of the petition.

2. The basic issue involved is in relation to the question whether reservation could be provided in promotion by the State Government in different services.
3. The learned counsel appearing for the parties submits that the issue had come up for consideration before this Court in a Writ Appeal No.409 of 2013 & Writ Petition (S) No.197 of 2017. Placing reliance on the verdict passed by the Apex Court in **(2018) 10 SCC 396 [Jarnail Singh & Others v. Lachhmi Narain Gupta & Others]** and in **(2006) 8 SCC 212 [M. Nagaraj & Others v. Union of India & Others]**, the relevant Rule particularly Rule 5 of the Chhattisgarh Civil Services Promotion Rules, 2003 was quashed by this Court giving appropriate directions as contained in paragraph 3, 4 & 5. We find it appropriate to extract the said paragraphs for convenience of reference.

“3. In view of the opinion expressed by the Constitutional Bench of the Hon'ble Supreme Court, all these writ appeals and writ

*applications stand disposed off and Rule 5 of the Chhattisgarh Civil Services Promotion Rules, 2003 stands quashed. The State Government however is given liberty to rework the Rules or the Policy within the framework of the law laid down by the Hon'ble Supreme Court in **Jarnail Singh** (supra).*

*4. If any other statutory body or Corporation in the State of Chhattisgarh has provided for or adopted the Promotion Rules, the same will also be hit by the decision in **Jarnail Singh** (supra).*

*5. The consequences of quashing of the Rule to the extent of providing reservation in promotion to the extent it falls foul of **M. Nagaraj and Others v. Union of India and Others** reported in (2006) 8 SCC 212 and **Jarnail Singh** case (supra) will follow.”*

4. In view of the submission made by the learned counsel that the matter could be disposed in view of the verdict as aforesaid, we disposed off this petition in terms of the judgment as aforesaid.

Sd/-
(P.R.Ramachandra Menon)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge