

\$~43 (2021)

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 15.09.2021

+ **W.P.(C) 6493/2021 & CM APPL. 20387/2021**

UNION OF INDIA & ANR.

..... Petitioners

Through: Mr. Harish Kumar Garg and Ms.  
Payal Agrawal, Advocates.

*versus*

DIANA GEORGE AND ORS

..... Respondents

Through: Mr. M.K. Bhardwaj, Advocate  
Mr. D.S.Mehandru, Sr. Panel Counsel  
for R-19.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE TALWANT SINGH**

**RAJIV SHAKDHER, J.: (ORAL)**

**[Court hearing convened *via* video-conferencing on account of COVID-19]**

1. This writ petition is directed against the order dated 02.11.2020, passed by the Central Administrative Tribunal (in short, "the Tribunal") in O.A. 249/2016.

1.1. The aforementioned O.A. was disposed of, in terms of the judgement of the Tribunal, dated 21.03.2018, passed in O.A. no. 1596/2017, titled *Raj Kumar & Ors. v. Union of India*.

1.2. To be noted, notice, in this petition, was issued on 14.07.2021. Since then, the respondents have filed their counter-affidavit in the matter.

2. Mr. Harish Kumar Garg, who appears on behalf of the petitioners,

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says that the petitioners are aggrieved by the operative directions contained in the impugned judgement, which requires them to follow, the Tribunal's own judgement in '*Raj Kumar & Ors. v. Union of India*'.

2.1. To be noted, *qua* this judgement, the petitioners had filed a writ petition, i.e., W.P.(C) 12035/2018. The Division Bench of this Court disposed of the writ petition on 12.11.2018 with the following directions:

“ Union of India has preferred these writ petitions to assail the common order of the Central Administrative Tribunal, Principal Bench, New Delhi ('the Tribunal') dated 21.03.2018 rendered in OA Nos.1596/2017 and 1111/2017. The direction issued by the Tribunal in the impugned order is that the petitioner should follow the ratio laid down by the Supreme Court in *M. Nagaraj & others vs. Union of India & others*, (2006) 8 SCC 212 and *B.K. Pavitra & others vs. Union of India & others*, CA No.2368/2011 decided on 09.02.2017 by the Supreme Court.

After the impugned order was passed, the Constitution Bench of the Supreme Court has rendered its decision in *Jarnail Singh & Ors. vs. Lachmi Narain Gupta & Ors.*, (2018) 11 SCALE 530. The Constitution Bench of the Supreme Court, which was examining whether the decision in *M. Nagaraj* (supra) should be referred to a Larger Bench for its reconsideration concluded that the decision in *M. Nagaraj* (supra) does not need to be referred to Seven Judges Bench. However, the conclusion in *M. Nagaraj* (supra) that the State has to collect quantifiable data showing backwardness of the Scheduled Casts and Scheduled Tribes, being contrary to the Nine Judges Bench's decision in the case of *Indra Sawhney & others vs. Union of India & others*, 1992 Supp. (3) SCC 217, was held to be invalid to that extent.

There is no gain saying that in view of the latest decision of the Supreme Court in *Jarnail Singh* (supra), the Union of India and all others are bound to comply with the same. In view of the aforesaid, we dispose of the present petitions by directing that the Union of India shall comply with the judgment in *Jarnail Singh*

(supra). Since the judgment in Jarnail Singh (supra) has been rendered only on 26.09.2018, we extend the time for compliance by another three months.

Petitions stand disposed of in the above terms along with pending applications.”

3. Given these circumstances, the impugned order passed by the Tribunal is modified, to the extent that, the parties will follow the directions issued by the coordinate bench of this Court, in W.P.(C) 12035/2018, *via* order dated 12.11.2018.

4. Mr. M.K. Bhardwaj, who appears on behalf of the respondents, says that he has no objection to the aforesaid direction being issued.

4.1. Mr. Bhardwaj’s statement is taken on record.

5. The writ petition is, accordingly, disposed of.

6. At this stage, Mr. Garg says that a contempt petition has been filed, with the Tribunal by the respondents. Mr. Bhardwaj says that for the next two months, the said contempt petition will not be pressed. The Tribunal will take this aspect into account, vis-à-vis the contempt petition.

**RAJIV SHAKDHER, J**

**TALWANT SINGH, J**

**SEPTEMBER 15, 2021/pa**

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