



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2508 OF 2023

1. All India Adiwasia Employees Federation (AIAEF)
Registration No.159/67-Maharashtra, Gadchiroli District,
Through its President-Madhavrao Kashiram Gawal,
Aged 58 years. Occupation: Retired,
R/o. MBBS House, Ward No.18,
Rampuri Camp area, Shivaji Nagar,
Gadchiroli-442 605 Tq. and District Gadchiroli.
 2. Dr.Gajanan Ramraoji Sayam,
Aged 50 years, Occupation-Teacher,
R/o. Ward No.3, Ganesh Nagar,
Borgaon(Meghe), Wardha.
Tq. and District Wardha..
- **PETITIONERS**

...V E R S U S...

1. The State of Maharashtra,
Through Secretary of Govt. of Maharashtra,
Ministry of Higher and Technical Education
and Employment Department,
Mantralaya, Mumbai-400 032.
 2. Gondwana University,
Gadchiroli, through its Registrar,
Tq. and District Gadchiroli.
- **RESPONDENTS**

Shri M.M.Sudame, Advocate for petitioners.
Shri (Dr.) Birendra Saraf, Advocate General with Shri Amit Madiwale,
Assistant Government Pleader for respondent no. 1/State.
Shri S.S.Ghate, Advocate for respondent no. 2.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

ARGUMENTS WERE HEARD ON : 31st AUGUST, 2023

JUDGMENT IS PRONOUNCED ON : 29th SEPTEMBER, 2023

JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioner no.1 is an Association of employees belonging to Scheduled Tribes that is registered as a Trust under the Maharashtra Public Trusts Act, 1950. It has preferred the present writ petition in representative capacity seeking to challenge the validity of the Maharashtra Educational Institutions (Reservation in Teachers' Cadre) Act, 2021 (for short, the Act of 2021). The petitioner no.2 possesses a validity certificate of belonging to 'Gond'-Scheduled Tribe and is a member of the Association. The Notification dated 07.04.2022 issued by the Department of Higher and Technical Education indicating the manner of cadre-wise reservation as well as the Government Resolution dated 11.04.2022 indicating the manner in which such cadre-wise reservation would be worked out is also under challenge. Advertisement dated 04.02.2023 issued by the Gondwana University-respondent no.2 seeking to fill up various posts of 'Assistant Professor' indicating cadre-wise reservation is also under challenge.

3. Shri M.M.Sudame, learned Advocate for the petitioners submitted that the State Legislature was not justified in enacting the Act of 2021 thereby providing for cadre-wise reservation when in fact for all these years the reservation policy adopted for such posts by indicating the subjects for which

the respective posts were reserved. According to him, the Nagpur University had issued an Employment Notice dated 27.07.1984 under Section 57(4)(a) of the Nagpur University Act, 1974 (for short, the Act of 1974) without indicating the various posts that were to be reserved for being filled in through recruitment. The provisions of Section 57(4)(a) of the Act of 1974 required subject-wise reservation to be indicated in the Employment Notice. Since subject-wise reservations were not indicated, the Employment Notice dated 27.07.1984 came to be challenged. The matter was considered by the Full Bench in *Dr. Suresh Chandra Verma and others vs. The Chancellor, Nagpur University and others* [1988 Mh.L.J. 1097]. The Full Bench categorically held that the reservation contemplated by Section 57(4)(a) of the Act of 1974 was reservation of specific posts meaning thereby that the posts were required to be reserved with reference to particular subjects. The Full Bench found that the Nagpur University was not justified in issuing the said Employment Notice and by holding that the illegality committed while issuing such Employment Notice went to the root of the matter, the entire selection process was held to be illegal. This decision of the Full Bench was challenged before the Hon'ble Supreme Court in *Dr. Suresh Chandra Verma and others vs. The Chancellor, Nagpur University and others* [(1990) 4 SCC 55]. The Hon'ble Supreme Court upheld the judgment of the Full Bench and held that Section 57(4)(a) of the Act of 1974 required the Employment Notice to indicate the specific post for which applications were to be invited from candidates belonging to the reserved classes. It was thus clear from the aforesaid legal position that the Full Bench of

this Court as well as the Hon'ble Supreme Court had held in clear terms that the reservation should be operated subject-wise and the same could not be generally for the post in question or for that matter the entire cadre. The Act of 2021 sought to enforce the policy of reservation in the matter of direct recruitment by treating a post as part of the cadre in an educational institution. The post of teacher was considered as a cadre itself and the reservation was to be applied for the entire cadre. The enactment was thus contrary to what was held by the Full Bench and the Hon'ble Supreme Court. Such course was impermissible in the light of the decision of the Hon'ble Supreme Court in *Dr. Jaya Thakur vs. Union of India and others* [AIR 2023 SC 3444].

Turning to the impugned advertisement dated 04.02.2023, it was submitted that the same did not indicate the post with regard to any particular subject that was reserved. Out of total 30 posts that were advertised, 19 posts had been shown to be reserved for various categories while 11 posts had been shown as kept for 'Open' category. This resulted in exceeding the reservation beyond 50% thus violating the law as laid down in *M. Nagaraj and others vs. Union of India and others* [(2006) 8 SCC 212]. There being a ceiling of 50% reservation, the posts shown to be reserved exceeded the same. It was also pointed out that in the earlier advertisement issued by the Gondwana University on 20.03.2020 one post of 'Assistant Professor' in the subject of Mathematics had been shown to be reserved for candidates from the Scheduled Tribe category. This advertisement rightly indicated the subject for which the post of 'Assistant Professor' was reserved. However, the impugned advertisement issued

on the basis of the Act of 2021 failed to indicate reservation of the post of 'Assistant Professor' for any particular subject. It could also be seen that in the advertisement there was no post available for candidates from the Scheduled Tribe category. As a result, the candidates were not aware as to for which subject the post of 'Assistant Professor' was reserved. As such the candidates from the reserved category were required to apply for all posts. The object sought to be achieved by Article 16 of the Constitution of India was thus lost. The learned Advocate also placed reliance on the decisions in *R.K.Sabharwal and others vs. State of Punjab and others [(1995) 2 SCC 745]* and *Jarnail Singh and others vs. Lachhmi Narain Gupta and others [(2018) 10 SCC 396]*. It was thus submitted that the Act of 2021 was liable to be struck down on aforesaid grounds.

4. Dr. Birendra Saraf, learned Advocate General appearing for the State Government opposed the aforesaid submissions. According to him, Article 16(4) of the Constitution of India was an enabling provision and the same permitted the State to implement the policy of reservation by balancing the rights of all stake holders. It was the responsibility of the State to achieve the end result of providing reservation to all categories of reserved classes. Initially the policy of reservation was implemented by indicating the relevant subjects for which number of posts were reserved. It was however found that due to such policy various posts remained vacant for a considerable period of time since no candidate from a particular reserved category for which the post with

regard to a particular subject was reserved. There was insufficiency of representation of candidates belonging to a particular reserved category. Considering various representations received from various associations of stakeholders, the Central Government promulgated the Central Educational Institutions (Reservation in Teachers' Cadre) Ordinance, 2019. Thereafter the Parliament passed the Central Educational Institutions (Reservation in Teachers' Cadre) Act, 2019 (for short, the Act of 2019). Having received the assent of the Hon'ble President, it came into force on 07.03.2019. In the meanwhile, the University Grants Commission on 07.03.2019 noted the enactment of the Act of 2019 and directed all Central Universities as well as State Universities receiving grant-in-aid alongwith all deemed Universities receiving grant-in-aid to undertake recruitment in accordance with the Act of 2019. The State Government vide resolution dated 23.12.2021 constituted a Cabinet Sub-Committee under the Chairmanship of the then Deputy Chief Minister for examining the issue of reservation in educational institutions. It was recommended that the State Government should enact a law for applying reservations cadre-wise. Based on the objective study undertaken in that regard such decision was taken. Considering these relevant aspects, the State Legislature enacted the Act of 2021 and there was nothing arbitrary or illegal in the same.

It was then submitted that the premise on which the Act of 2021 was sought to be challenged that the State Government had taken away the effect of the law laid down by the Full Bench and thereafter the Hon'ble Supreme Court

was incorrect. Since there was no mandamus issued in the said decisions to apply the policy of reservation subject-wise, it was permissible for the State Government to enact the Act of 2021. What was considered in the said decisions was only the legality of the Employment Notice issued by the Nagpur University on 27.07.1984. Since it was found that the said Employment Notice was not in accordance with Section 57(4)(a) of the Act of 1974, the same came to be set aside. The State was competent to enact the Act of 2021 and its competency was not under challenge. As regards absence of reservation for members from the Scheduled Tribe communities were concerned, in contradiction to the earlier advertisement dated 20.03.2020 it was submitted that in the meanwhile since recruitment of members from the Scheduled Tribe category had been undertaken and all posts reserved for the said candidates had been filled in, no post was shown to be reserved for members from the Scheduled Tribe category in the impugned advertisement dated 04.02.2023. The roster in that regard had been duly approved by the Competent Authority. The petitioners had failed to indicate that the impugned advertisement to the extent the reservation was provided was either faulty or incorrect. To substantiate his contentions, the learned Advocate General referred to the decisions in *M/s. Kasturi Lal Lakshmi Reddy, vs. State of Jammu and Kashmir and another* [(1980) 4 SCC 1], *Union of India and others vs. Virpal Singh Chauhan and others* [(1995) 6 SCC 684], *Ajit Singh and others-III vs. State of Punjab and others* [(2000) 1 SCC 430], *People's Union for Civil Liberties and another vs. Union of India and others* [(2004) 2 SCC 476] and *Nair Service*

Society vs. Dr. T. Beermasthan and others [(2009) 5 SCC 545]. Attention was also invited to a comparative statement indicating cadre-wise and subject-wise position in the teachers' cadre pertaining to Savitribai Phule Pune University. It was demonstrated that when there was cadre-wise reservation, more seats were available for members from the Scheduled Tribes than when the reservation was subject-wise. It was thus submitted that the writ petition was liable to be dismissed.

Shri S.S.Ghate, learned Advocate appearing for the Gondwana University-respondent no.2 submitted that the University had published the advertisement in the light of the requirements of the Act of 2021. After the roster point was approved, the reservations were indicated for the entire cadre and hence no illegality was committed by the University.

5. In reply, the learned Advocate for the petitioners submitted that it was necessary for the State to ensure that the provisions of the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and other Backward Classes) Act, 2001 (for short, the Act of 2001) were not violated and that the posts reserved for members from the reserved category were filled in accordance with the percentage of reservation. With cadre-wise reservation being implemented, the object behind enacting the Act of 2001 was not being achieved.

6. We have heard the learned Advocates appearing for the parties and we have perused the material placed on record. We have also given due consideration to the rival submissions. The challenge raised by the petitioners is to the validity of the Act of 2021. The challenge is based on the premise that by providing for reservation cadre-wise and not subject-wise, the same has resulted in violating Article 14 of the Constitution of India alongwith Articles 15(4) read with 16(3) and (4) of the Constitution of India. Another limb of challenge is that the Full Bench in *Dr. Suresh Chandra Verma and others* (supra) which decision has been affirmed by the Hon'ble Supreme Court having held that failure to notify reservations of the teaching posts subject-wise and mentioning total number of posts without indicating any particular post reserved subject-wise was illegal, it was not permissible for the State Legislature to enact the Act of 2021 so as to get over the aforesaid position of law laid down by the Courts.

7. Before considering the aforesaid challenge, it would be necessary to keep in mind the aspect of there is a presumption that the State action is reasonable and in public interest. It is for the party challenging its validity to show that the same is wanting in reasonableness or is not informed with public interest. The Court cannot lightly assume that the action taken by the Government is unreasonable or without public interest. However, when any governmental action fails to satisfy the test of reasonableness and public interest and is found to be wanting in the quality of reasonableness or lacking in the element of public interest, the said action would be liable to be struck down as

invalid - paragraph 14 of the decision in *M/s. Kasturi Lal Lakshmi Reddy* (supra). In a recent decision in the case of *Dr. Jaya Thakur* (supra) the Hon'ble Supreme Court has referred to its earlier decisions delineating the scope of judicial review as regards the legislative functions of the Legislature. Reference has been made to the decision in *Asif Hameed and others vs. State of Jammu and Kashmir and others* [1989 Supp (2) SCC 364] wherein it has been observed as under:

“19. When a State action is challenged, the function of the Court is to examine the action in accordance with law and to determine whether the legislature or the executive has acted within the powers and functions assigned under the Constitution and if not, the Court must strike down the action. While doing so the Court must remain within its self-imposed limits. The Court sits in judgment on the action of a coordinate branch of the Government. While exercising power of judicial review of administrative action, the Court is not an Appellate Authority. The Constitution does not permit the Court to direct or advise the executive in matters of policy or to sermonize qua any matter which under the Constitution lies within the sphere of legislature or executive, provided these authorities do not transgress their constitutional limits or statutory powers.”

Reference has also been made to the decision in *Binoy Viswam vs. Union of India and others* [(2017) 7 SCC 59] wherein it has been observed as under:

78. “These contours of the judicial review are spelled out in the clear terms in Rakesh Kohli [State of M.P. v. Rakesh Kohli, (2012) 6 SCC 312 : (2012) 3 SCC (Civ) 481] , and particularly in the following paragraphs : (SCC pp. 321-22 & 325-27, paras 16-17, 26-28 & 30).”

“16. The statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. The Court must be able to hold beyond any iota of doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. Sans flagrant violation of the constitutional provisions, the law made by Parliament or a State Legislature is not declared bad.”

It has also referred to the observations in paragraph 15 of the decision in *Mohd.*

Hanif Quareshi vs. State of Bihar, [AIR 1958 SC 731] which reads as under:

“15. ... The courts, it is accepted, must presume that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds. It must be borne in mind that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest and finally that in order to sustain the presumption of constitutionality the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation.”

8. A complete reading of the decision of the Full Bench and thereafter the judgment of the Hon'ble Supreme Court referred to above indicates that what was under consideration was the legality and validity of the Employment Notice dated 27.07.1984 as being contrary to Section 57(4)(a) of the Act of 1974. It is to be noted that the Full Bench proceeded to decide the writ petition that had been filed for challenging the said Employment Notice as well as the order of termination and it did restrict its considerations to the reference alone. We do not find that there is any mandamus issued in *Dr. Suresh Chandra Verma and others* (supra) that reservation has to be indicated subject-wise and not the post-wise. It was only the specific challenge to the Employment Notice being

contrary to Section 57(4)(a) of the Act of 1974 that was under consideration. Therefore, in absence of there being any mandamus issued either by the Full Bench or by the Hon'ble Supreme Court, the State would not be precluded from enacting the Act of 2021 so as to remove the basis of the aforesaid decisions. In this regard, reference can be made to the recent decision of the Hon'ble Supreme Court in *Dr. Jaya Thakur* (supra). In paras 113 and 114 it has been observed as under:

“113. Recently, in the case of Madras Bar Association v. Union of India and another, a bench of learned three Judges of this Court, after considering the earlier judgments of this Court on the issue of permissibility of legislative override, observed thus:

50. The permissibility of legislative override in this country should be in accordance with the principles laid down by this Court in the aforementioned as well as other judgments, which have been culled out as under:

50.1. The effect of the judgments of the Court can be nullified by a legislative act removing the basis of the judgment. Such law can be retrospective. Retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed under the Constitution. [Lohia Machines Ltd. v. Union of India, (1985) 2 SCC 197 : 1985 SCC(Tax) 245]

50.2. The test for determining the validity of a validating legislation is that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the Court at the time of rendering its judgment. In other words, the defect pointed out should have been cured such that the basis of the judgment pointing out the defect is removed.

50.3. Nullification of mandamus by an enactment would be impermissible legislative exercise (see : [S.R. Bhagwat v. State of Mysore, (1995) 6 SCC 16 : 1995

SCC (L&S) 1334]). Even interim directions cannot be reversed by a legislative veto (see: Cauvery Water Disputes Tribunal [Cauvery Water Disputes Tribunal, In re, 1993 Supp (1) SCC 96 (2)] and Medical Council of India vs. State of Kerala [(2019) 13 SCC 185].

50.4. Transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the rule of law and of Article 14 of the Constitution of India.

114. It could, thus, clearly be seen that this Court has held that the effect of the judgments of this court can be nullified by a legislative act removing the basis of the judgment. It has further been held that such law can be retrospective. It has, however, been held that retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed under the Constitution. It has been held that the defect pointed out should have been cured such that the basis of the judgment pointing out the defect is removed. This Court has, however, clearly held that nullification of mandamus by an enactment would be impermissible legislative exercise. This Court has further held that transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the rule of law and of Article 14 of the Constitution of India.”

It can thus be seen that while the effect of the judgment of the Court could be nullified by a legislative act removing the basis of the judgment, nullification of mandamus by an enactment would be an impermissible legislative exercise. The contention of the petitioners that the Act of 2021 sought to do away with the law laid down by the Full Bench and thereafter by the Hon’ble Supreme Court in *Dr. Suresh Chandra Verma and others* (supra) therefore cannot be accepted in absence of any mandamus being issued in those decisions.

9. According to the petitioners, there are various practical difficulties in enforcing the reservation cadre-wise rather than operating it subject-wise. When only the total number of posts reserved in a cadre are indicated, a candidate from the reserved category is not aware of the subject for which the post in the teachers' cadre is reserved to enable him to apply for the same. The composition of cadre of teachers irrespective of a specific subject being reserved in such cadre in fact defeats the rights of candidates from the reserved category. The Selection Committee constituted to undertake the selection of eligible candidates would also not be aware of a particular post with regard to a specific subject being reserved. It is this very irregularity and illegality that was noticed in *Dr. Suresh Chandra Verma and others* (supra) by the Full Bench and thereafter by the Hon'ble Supreme Court. On this premise, it was urged that the Act of 2021 in fact results in reviving such illegality that was struck down by the Full Bench. To highlight this aspect the initial advertisement dated 20.03.2020 was sought to be compared with the subsequent advertisement dated 04.02.2023 that was issued after the Act of 2021 came into force. In the earlier advertisement, 8 posts in the Post Graduate Teaching Departments of the Gondwana University were shown to be reserved for members from the Scheduled Tribe category. However, in the impugned advertisement dated 04.02.2023 no such post was shown to be reserved for members from the Scheduled Tribe category.

10. To consider this aspect it would be necessary to briefly refer to the issue that was considered by the Full Bench in *Dr. Suresh Chandra Verma and others* (supra). In the said decision the Nagpur University had issued Employment Notice dated 27.07.1984 stating therein that applications were invited for 77 posts. 13 posts were of Professors, 29 posts were for Readers and 35 posts were for Lecturers in different subjects. The reservation applicable was broadly indicated for the post of Professors, Readers and Lecturers. After interviews were held by the Selection Committee for 53 posts, names of 47 candidates were recommended to the Executive Council. The Executive Council proceeded to make appointments of 47 candidates to various posts after making subject-wise reservations for the first time in its meeting. On various representations being made to the Hon'ble Chancellor against the said Employment Notice, a One Man Committee was constituted by the Nagpur University which thereafter held a public enquiry. Report dated 24.09.1986 was accordingly submitted and the same was accepted by the Hon'ble Chancellor. In the meanwhile, various writ petitions were filed raising a challenge that the recommendation from the Board of University Teaching and Research had not been received before issuing the Employment Notice. On that basis, the High Court set aside the said Employment Notice. The Hon'ble Chancellor after considering the report of the One Man Committee as well as the judgment in the aforesaid writ petitions directed the Vice Chancellor to terminate the services of all appointees including the appointment of Dr. Suresh Chandra Verma. While considering the challenge to the order of termination,

the issues arising were referred to the Full Bench for considering the following question:

“Is non-reserving the posts of University teachers subjectwise in the employment notice a breach of letter and spirit of reservation policy contained in Section 77C read with Section 57 of the Act?”

11. The Full Bench proceeded to hold that the Employment Notice dated 27.07.1984 was contrary to the provisions of Section 57(4)(a) of the Act of 1974. It held that the entire selection process had been vitiated for the reason that non-reservation of posts subject-wise in the advertisement resulted in setting at naught the reservation policy and depriving the members of the backward community of their legitimate rights. In view of this patent illegality the termination of services by the Hon’ble Chancellor was valid. This decision of the Full Bench was carried in appeal before the Hon’ble Supreme Court. The Hon’ble Supreme Court noted in paragraph 11 that when Section 57(4)(a) of the Act of 1974 required that the advertisement or the Employment Notice to indicate the total number of reserved posts, if any, it implied that the Employment Notice could not be vague and had to indicate the subject in which the post was vacant and for which the applications were invited from candidates belonging to the reserved classes. On this premise, it was held that the view taken by the Full Bench that the Employment Notice was bad in law as it failed to notify the reservations of the posts subject-wise was the correct view.

12. It is well settled that a legislative enactment can be struck down on the ground of incompetence on the part of concerned Legislature in making a law or if the enactment takes away or offends any of the fundamental rights conferred by Part-III of the Constitution or any other constitutional provision. An enactment cannot be struck down merely by stating that the same is arbitrary or unreasonable. There has to be some constitutional infirmity found before proceeding to invalidate an enactment. Prior to enforcing the Act of 2021, it is seen that the Central Legislature enacted the Act of 2019. Section 3 of the Act of 2021 is *pari materia* Section 3 of the Act of 2019. It has been indicated that the State Government undertook a study in the matter in the light of various representations received. The material collected was considered by the Cabinet Sub-Committee which recommended enacting a law so as to enforce cadre-wise reservation.

A perusal of the Statement of Objects and Reasons that led to the tabling of Legislative Assembly Bill No. XLI of 2021 indicates that it was noticed that due to small size of subject-wise cadre, all reserved categories were not getting representation in the teachers' cadre. In some cases where there was subject-wise reservation, when a single post was available it could not be reserved. On receiving various representations from several organizations to adopt the cadre-wise reservation policy of the Central Government, the Law and Judiciary Department proceeded to table the aforesaid Bill. The Act of 2021 provides for reservation of all categories entitled for such reservation. The same is in proportion to overall reservation permissible. It has not been demonstrated

that by virtue of such cadre-wise reservation any particular reserved category has been deprived of the benefit of reservation to which it is otherwise entitled. It is pertinent to note that there is no specific challenge to the advertisement dated 04.02.2023 published by the Gondwana University on the premise that though members from the Scheduled Tribe category were entitled to the benefit of reservation in the said recruitment for the post of 'Assistant Professor', the same has not been provided. A specific assertion has been made on behalf of the Joint Director of Higher Education, Nagpur Division, Nagpur in para 10 of the affidavit in reply that of the total 48 sanctioned posts of Assistant Professors at Gondwana University, 4 had been reserved for members from the Scheduled Tribe category and that all the said 4 posts had been filled in by candidates belonging to that category. It was for the said reason that the advertisement dated 04.02.2023 did not indicate any post reserved for candidates from the Scheduled Tribe category. The roster in that regard had been approved by the Competent Authority. In absence of denial of this specific assertion, there is no basis to hold that by failing to provide for any reservation to candidates from the Scheduled Tribe category, there has been breach of Article 15(4) read with Article 16(4) of the Constitution of India. Hence it is not felt necessary to refer to the decisions cited by learned counsel in this regard.

13. It would also be pertinent to note that the challenge to the Act of 2021 is by the petitioners representing only one category of backward class of citizens. The learned Advocate General is justified in pointing out that it is the obligation of the State to grant the benefit of reservation to all categories of

backward class of citizens and with that object to be achieved, the Act of 2021 has been enacted. Similarly, it is for the State to decide the manner in which it intends to provide reservation. The provision pertaining to reservation being an enabling provision, different State Governments could have different methods of reservations. If cadre-wise reservation does not suffer from any constitutional infirmity, there would be no basis for this Court to interfere with such legislative act. Reference in this regard could be made to paragraph 24 of the decision in *Virpal Singh Chauhan and others* (supra) as well as paragraphs 48 and 56 of the decision in *Nair Service Society* (supra).

14. For aforesaid reasons, we do not find that the challenge raised to the validity of the Act of 2021 can be upheld. The Act of 2021 is found to be a competent piece of legislation not falling foul of any alleged infirmities for being struck down. The Government Resolution dated 11.04.2022 merely prescribes the modality of applying the provisions of the Act of 2021 and there is no legal infirmity therein. Similarly, the advertisement dated 04.02.2023 having been issued in accordance with the requirements of the Act of 2021 it does not call for any interference. The writ petition is thus dismissed. Rule stands discharged with no order as to costs.

Pending civil application also stands disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.