

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CWP-PIL-283-2024
Date of decision: 20.12.2024

PEOPLE’S PARTY OF INDIA ..Petitioner

Versus

REGISTRAR GENERAL PUNJAB AND HARYANA HIGH COURT
CHANDIGARH AND ANOTHER ..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.R. Narwal, Advocate
for the petitioner.

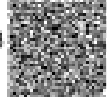
Mr. Akshay Bhan, Sr. Advocate
with Mr. Kshitij Sharma, Advocate
for respondent No.1 and 2.

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SHEEL NAGU, C.J. (Oral)

1. The present petition has been filed in shape of Public Interest Litigation (PIL) by People’s Party of India (Democratic), which claims to be a political party primarily assailing Rule 23-A of the High Court Establishment (Appointment and Conditions of Service) Rules, 1973, which lays down that 10% of the posts filled by direct recruitment shall be reserved for Scheduled Castes/Scheduled Tribes/Backward Classes.
2. The contention of learned counsel for petitioner is that the extent of reservation for Scheduled Castes ought to be 15%, for Scheduled Tribes 7.5% and for Backward Classes 27% to bring it in line with constitutional provisions.
3. Article 16 of Constitution of India provides for reservation by

way of enabling provision, which is evident from the bare reading of



Article 16 of Constitution of India, which is reproduced below for ready reference and convenience:-

“16. Equality of opportunity in matters of public employment.—

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

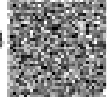
(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.



(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.]”

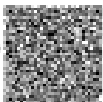
4. The Apex Court in ***E.V. Chinnaiah Vs. State of Andhra Pradesh and others, (2005) SCC 394*** and ***State of Punjab Vs. Anshika Goyal and others, (2022) 3 SCC 633***, has laid down that provision of Article 16 of the Constitution of India are enabling in nature leaving it to the discretion of employer concerned to provide reservation and its extent.

5. There is no such mandate in law that every establishment, which is a ‘State’ under Article 12 of Constitution of India, is mandatorily required to provide reservation to a particular category and to a particular extent, unless the State legislature promulgates law in that regard.

6. Moreso, what we notice in this present petition is that it essentially raises service dispute by way of Public Interest Litigation (PIL).

6.1 The Apex Court in the cases of ***Dr. Duryodhan Sahu vs. Jitendra Kumar, (1998) 7 SCC 273***; ***Neetu Vs. State of Punjab, (2007) 10 SCC 614***; ***Dattaraj Nathuji Thaware vs. State of Maharashtra, (2005) 1 SCC 590***; and ***Vishal Ashok Thorat and others vs. Rajesh Shripambapu and others, (2020) 18 SCC 675***, has been of consistent view that a service dispute cannot be raised by way of a Public Interest Litigation. The relevant extract of ***Dattaraj Nathuji Thaware’s*** case (supra) is reproduced hereunder for ready reference:-

“11. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so-called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations.



*Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in **Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors. 1998 (4) SCT 213 (SC)**, this Court held that in service matters PILs should not be entertained, the inflow of so called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision.”*

7. This Court has also taken a similar view earlier in **Civil Writ Petition-PIL No.241 of 2024, titled as H.C. Arora Vs. Union of India and others, decided on 29.10.2024.**

8. In view of above, this Court deems it appropriate to decline entertainment of this petition for being not maintainable as a Public Interest Litigation (PIL).

9. Accordingly, the present petition stands dismissed with liberty to the aggrieved persons (individual) to raise same dispute.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

December 20th, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No