

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 11442-11443/2025

YOGESH KUMAR THAKUR

...APPELLANT(S)

VERSUS

**GURU GHASIDAS SAHITYA AVAM SANSKRITI
ACADEMY AND ORS.**

...RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION (C) NO. 8764/2023

WITH

DIARY NO. (C) NO. 23299/2023

WITH

SPECIAL LEAVE PETITION (C) NO. 12398/2023

WITH

TRANSFERRED CASE (C) NO. 10/2025

WITH

TRANSFERRED CASE (C) NO. 6/2025

WITH

TRANSFERRED CASE (C) NO. 15/2025

WITH
TRANSFERRED CASE (C) NO. 14/2025

WITH
TRANSFERRED CASE (C) NO. 7/2025

WITH
TRANSFERRED CASE (C) NO. 12/2025

WITH
TRANSFERRED CASE (C) NO. 11/2025

WITH
TRANSFERRED CASE (C) NO. 13/2025

WITH
TRANSFERRED CASE (C) NO. 16/2025

WITH
WRIT PETITION (C) NO. 496/2025

WITH
WRIT PETITION (C) NO. 606/2025

WITH
WRIT PETITION (C) NO. 735/2025

WITH
WRIT PETITION (C) NO. 866/2025

ORDER

1. The common facts in the present batch of appeals, special leave petitions, transferred cases, and writ petitions concern the validity of enhancement in the quantum of reservation for backward classes in the State of Madhya Pradesh. It is reflected from records that after the judgment of this Court in Indra Sawhney, the State of Madhya Pradesh enacted the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Janjatiyon Aur Anya Pichda Vargon Ke Liye Arakshan) Adhiniyam, 1994, to provide for reservation to backward classes.

Section 4(a) and (b) of the said 1994 Act provided for 14% reservation for “Other Backward Classes” in public employment for all posts, while providing 16% for Scheduled Castes and 20% for Scheduled Tribes, respectively.

2. After the enactment of the State Reorganisation Act, the quantum of reservation in the State of Madhya Pradesh continued as

originally under the 1994 Act, providing for 14% reservation to the backward classes, while reservations in Chhattisgarh underwent certain changes in 2011 and 2012, enhancing the reservation for scheduled tribes and backwards classes beyond the 50% ceiling. The said changes of 2011 and 2012 were part of the challenges in writ petition(s) leading to the order of the High Court of Chhattisgarh dated 19.09.2022, allowing the writ petition(s) and invalidating the legislation which had increased the quota in 2011 and 2012.

3. There was a consistent demand that reservation for backward classes in the State of Madhya Pradesh should be increased to 27%, at par with that provided under other States; however, due to the 50% reservation ceiling, such a demand was not given legislative sanction for long. Some aspect of this issue also formed the basis of the prayers in SLP (C) No. 21195/2015, which is pending before this Court as part of the present batch.

4. That, finally, acceding to longstanding demand, the Governor of the State of Madhya Pradesh promulgated an Ordinance named as the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Janjatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Sanshodhan Adhyadhesh, 2019, dated 08.03.2019, as per which an amendment was made to Section 4(a) and 4(b) of the 1994 Act, and the provision of 14% reservation for OBC in public employment under the 1994 Act was replaced with 27% reservation. The said Ordinance was challenged via writ petition(s), particularly Writ Petition No. 5901/2019, preferred before the High Court, in which an Interim Order came to be passed on 19.03.2019, observing that the State will not give effect to the increased reservation amid pendency of the writ petition(s). Further, writ petition(s) under Article 32 of the Constitution were also preferred before this Court, which were tagged with the special leave petition(s) already pending before this Court.

5. With time, the said Ordinance 2019 was replaced with the Amendment Act, i.e., Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Janjatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Sanshodhan Adhiniyam, 2019. The State, vide Gazette Notification dated 24.12.2019, also provided that 27% reservation to the OBC Category shall be extended in place of 14% that was existing for the OBC Category candidates to date. The said Act was challenged afresh via various Writ Petition(s), which was again stayed by the High Court in nature of earlier impugned orders observing that State will not give effect to the increased reservation during the pendency of the Writ Petition(s).

6. We are informed that while the challenge to the Ordinance and thereby the Amendment Act was pending, advertisements for various posts came to be introduced with an increased 27% reservation and even in the existing/ongoing recruitments, the State, vide corrigendum dated 16.11.2021 and 27.01.2022, enhanced the quantum of

Backwards Class reservation to 27%. On 02.09.2021, the State's General Administration Department issued an order that, except for the recruitments challenged through Writ Petition(s), in all vacancies/recruitments, 27% reservation will be given effect. The said order was again challenged by filing of fresh writ petition(s).

7. One of such writ petition(s) W.P. No. 3688/2022 challenging the gazette notification dated 24.12.2019, order dated 02.09.2021 and corrigendum dated 27.01.2022 was listed before the High Court, in which the order dated 04.05.2022 restraining the State Government from providing reservation for OBC category beyond 14% qua the recruitment initiated by various advertisement and given effect by corrigendum came to be passed. The High Court also tagged the said Writ Petition to the batch already pending before it and observed that the bench will take up the matters in the usual course.

8. On 10.02.2023, the State Government filed an application in W.P. No.5901/2019 (tagged along with W.P. No. 3688/2022) before

the High Court, pointing that that matters raising the same challenge were pending before this Court and in the view of pendency, the hearing on writ petitions pending before the High Court may be deferred till the decision by this Court. Not obtaining the desired relief from the High Court, the State then filed a Transfer Petition (Civil) No. 231/2024 seeking the transfer of W.P. No. 3688/2022 to this Court.

9. The said Transfer Petition was allowed by this Court's order dated 20.08.2024. It is reflected that in view of the stay operating by virtue of interim order(s) passed by the High Court, the State Government could not proceed with the appointment and selection for various posts for which the recruitment process had already commenced by virtue of various notifications. We are also apprised that, in the meantime, the State has been preparing two separate lists of eligible candidates for the posts to deal with the scenario in which the challenge to the enhancement in reservation fails, or if the writ petitions challenging the enhancement succeed.

10. In any event, the State has preferred the present IAs seeking vacation of the stay order(s) of the High Court. The sheet anchor of the State's argument is a similar order passed by this Court dated 01.05.2023, passed in SLP (C) Nos. 18816-18817/2022, which, while dealing with the special leave petition challenging the High Court order dated 19.09.2022 invalidating the Chhattisgarh Public Service (Reservation for SC, ST and OBC) (Amendment) Act, 2011 and Chhattisgarh Educational Institutions (Reservation in Admission) Act, 2012 Act in the State of Chhattisgarh, enhancing the quantum of Schedule Tribe and Backward Classes reservation, has observed as under:

"1. Dr. Abhishek Manu Singhvi, learned Senior counsel appearing for the State submits that before the judgment of the High Court was delivered, various advertisements have been issued and the selection processes were also in the process. It is submitted that if the petitioner is not permitted to go ahead with the selection process and also make the promotion, the State would face a acute shortage of manpower.

2. Ms. Pooja Dhar, learned counsel appearing for the writ petitioners has vehemently opposed the grant of interim order.

3. We find that a situation cannot be permitted where the State does not have requisite manpower to run the administration.

4. We, therefore, permit the State to go ahead with the selection process and make appointments and promotions.

5. However, it is made clear that the same shall be subject to the result of the petition.

6. All appointment and promotion orders shall specifically mention that such appointments and promotions are subject to the final outcome of the present proceedings”

11. Relying on the aforesaid order, the State argues that transfer of the writ petitions from the High Court to this Court is not only affecting the M.P. Public Service Commission regarding various recruitment but also affecting admissions in colleges, recruitments in colleges and also other various fields and departments. The State also argues that the acute employee shortage in the State of Madhya Pradesh is similar to the problems earlier faced by the State of Chhattisgarh, in which the interim order dated 01.05.2023 was passed. The State, therefore, prays for an interim order in the nature of the order dated 01.05.2023, submitting that the State Government would face irreparable loss and injury as selection and recruitment processes since 2022 in various

departments of the State Government are pending due to the pendency of the current issue involved in the present batch of matters.

12. We have given anxious consideration to the submissions made at the Bar. It is not in dispute that all the orders passed by the High Court of Madhya Pradesh in challenges to the validity of the ordinance, the Amendment Act, the recruitment notification(s), and various orders passed by the State are all interim in nature. In fact, it was the State Government that filed the Transfer Petition(s) seeking transfer of the pending batch of Writ Petition(s) which was allowed by the Court in view of similar challenge first, in pending special leave petition(s) before this Court seeking enhanced reservation, and second, the similar challenge to the quantum of reservation in State of Chhattisgarh with respect to Scheduled Tribes and Backward Classes.

13. The demand for reservation as well as the measures that state may adopt for provisioning affirmative action will vary from State to

State depending on the social fabric of that State. While affirmative action and reservations are the constitutional obligations and prerogatives of State policy, the High Court of the concerned State is best suited to examine the validity and vires of challenges to such policy decisions at the first instance. The position that was obtained in the state of Chhattisgarh, followed by the decision that the Chhattisgarh High Court had taken cannot be the solitary guiding principal for considering the legality and validity of affirmative action in the state of Madhya Pradesh. We are of the opinion that the High Court of Madhya Pradesh will be in the best position to consider take a holistic view of the need as well as the legality of the affirmative action for the state. At the same time, we are also of the opinion that examining these issues independently, in exercise of our jurisdiction under Article 32, without the decision of the High Court will be in inappropriate. However, we can balance the interest by requesting the

High Court to ensure that these petitions are taken up and disposed of expeditiously.

14. It is with this perspective that we proposed that the challenge in the present Writ Petition(s) should first be considered and examined in detail by the High Court. There is a general agreement at the Bar to this suggestion.

15. In view of the above, we remand the batch of these appeals, special leave petitions, transferred cases and writ petitions to the High Court of Madhya Pradesh. The Hon'ble Chief Justice is requested to constitute a special bench for hearing these matters. In view of the long pendency and also the urgency, it is requested that the bench to which the matters are assigned will take up and dispose of the challenges within three months from today. The Bench before which the matters are assigned can also consider the IAs by contesting parties. We have not expressed any opinion on the merits of the matter or on the interim arrangement pending disposal of the writ petitions.

16. The civil appeals, special leave petition(s), transferred cases, writ petition(s) and other proceedings, if any, including pending IAs, are disposed of accordingly.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

**NEW DELHI;
FEBRUARY 19, 2026**