IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2010

CORAM

THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.NOs.10748 of 2009, 3840 to 3842, 3950,
5116, 5117 and 6645 of 2010
and
M.P.NOS.1 AND 2 OF 2009,1,1,1,1,1,1 and 1 of 2010,

D.Pothumallee .. Petitioner in W.P.No.10748 of 2009

E.Amsavalli .. Petitioner in W.P.No.3840 of 2010

R.Sumathi .. Petitioner in W.P.No.3841 of 2010

Thenmozhi .. Petitioner in W.P.No.3842 of 2010

S.Chithra .. Petitioner in W.P.No.3950 of 2010

Vasanthi .. Petitioner in W.P.No.5116 of 2010

J.Kalaimani .. Petitioner in W.P.No.5117 of 2010

J.Rajavalli .. Petitioner in W.P.No.6645 of 2010

Vs.

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1.The District Collector,
Collectorate,
Thiruvarur District.
2.The Project Officer
for Children Development,
Needamangalam,
Mannarkudi Taluk,
Thiruvarur District.
3.V.Thentral .. Respondents in W.P.No.10748 of 2009

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1.The Government of Tamil Nadu,
rep. By its Special Commissioner &
Government Secretary,
Social Welfare Department,
Fort St. George, Chennai-9.
2.The Department of Adi Dravidar Welfare,
rep. By its Secretary,
Fort St. George,
Chennai-9.
3.The District Collector,
Collectorate,
Thiruvarur District. .. Respondents in
W.P.Nos.3840, 3841,3842
3950, 5116, 5117
and 6645 of 2010

W.P.No.10748 of 2009 is preferred under Article 226 of the Constitution for the issue of a writ of certiorarified mandamus to call for the records from the first respondent pertaining to the impugned appointment order, proceedings Se.Mu.Na.Ka.No.1581, A1/08 dated 30.5.2009 of the third respondent and to quash the same and consequently to direct the first respondent to appoint the petitioner as noon meal organiser on the place of the third respondent.

W.P.Nos.3840, 3841, 3842, 5116, 5117 and 6645 of 2010 are preferred under Article 226 of the Constitution of India for the issue of a writ of mandamus forbearing the respondents from appointing the post of organizer at Adi Dravidar Primary School, Thenpathi, Thiruvarur District, the post of Cook in the noon meal centre at Panchayat Union Primary School, Serumangalam Udyar Street, Needamangalam Taluk, Thiruvarur District and for the post of Organiser in the noon meal centre at Thirumurugan High School, Melavasal, Mannarkudi Taluk, Thiruvarur District and also forbearing the third respondent from appointing the post of Organizer in the noon meal centre at Panchayat Union middle School. Ayakudi, Thiruvarur District respectively and also for appointing the post of Anganwadi Assistant at Korkai-II, Anganwadi Centre, Thiruthuraipoondi Taluk, Thiruvarur District and also for appointing the post of Organizer in the noon meal centre at S.S.A.Primary School, Karupattimoolai, Thiruvarur District, without following the rule of reservation in view of G.O.Ms.No.78, dated 30.6.2008 issued by the first respondent.

W.P.No.3950 of 2010 is preferred under Article 226 of the Constitution of India for the issue of a writ of mandamus forbearing the respondents from appointing the post of Anganwadi Assistant in Maruthavanam, Thiruvarur District without following the rule of reservation in view of G.O.Ms.No.78, dated 30.6.2008 and G.O.No.149 dated 20.11.2009 issued by the first respondent.

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For Petitioners : Mr.P.Vijendran

For Respondents : Mr.N.Senthilkumar, AGP

- - - -

COMMON ORDER

I. Prelude:

We deal here with the right of all our children, whatever their race, to an equal start in life and to an equal opportunity to reach their full potential as citizens. Those children who have been denied that right in the past deserve better than to see fences thrown up to deny them that right in the future . . . [U]nless our children begin to learn together, there is little hope that our people will ever learn to live together.
(Milliken v.Bradley, 418 U.S. 717, 783 (1974) (Marshall, J., dissenting))

II. The Fact file:

2.1.As regards discrimination by providers, grassroots-level workers like Auxiliary Nurse Midwives (ANMs) and Anganwadi Workers (AWWs) were more discriminating than the higher-order providers such as doctors and lab technicians. Of the total number of times that Dalit children accessed health care services, more than 93 per cent times they experienced discrimination by ANMs and AWWs.

Almost always (98 per cent times), the AWWs served the food last to the Dalit children. (See: Tables below)

2.2.TABLE 7.3: Nature of Discrimination Experience by Dalit Children in Health Care Access-by Sphere, Form, and Provider

Nature of discrimination	Total response	Positive response	Children experiencing discrimination (in percentage)
AWWs do not touch them	1931	1680	87
AWWs make them sit separately	1703	1465	86
AWWs do not speak gently	839	604	72
AWWs serve them food last	1902	1864	98

2.3.Discrimination through touch was more vigorously

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practised by pharmacists, ANMs and AWWs. They did not touch the Dalit children in almost all the times they interacted with the children. (See Table 7.4)

2.4.TABLE 7.4: Caste-based Discrimination Experienced by Dalit Children while Accessing Health Care by Degree of Prevalence

80-90%	90%+
AWWs do not touch them AWWs make them sit separately	AWWs serve them food last

See: Sanghamitra S.Acharya in "Blocked by Caste ECONOMIC DISCRIMINATION in MODERN INDIA" , Edited by Sukhadeo Thorat & Katherine S.Newman,Oxford University Press, New Delhi, 2010) pp.216-220

III. Debates on interdining among various Castes:

3.1.Interdrinking, interdining, intermarrying, I hold, are not essential for the promotion of the spirit of democracy. I do not contemplate under a most democratic constitution a universality of manners and customs about eating, drinking and marrying. We shall ever have to seek unity in diversity, and I decline to consider it a sin for a man not to drink or eat with anybody and everybody.

('The caste system', Young India, 8 Dec. 1920, The Collected Works of Mahatma Gandhi, vol. XIX, Ahmedabad:Navjivan Trust, 1966, pp.83-5.)

3.2.Responding to the controversy around separate dining practised in the gurukulam (at Tirunelveli, Tamil Nadu), M.K.Gandhi argued "I do not regard it as a sin for a person not to dine with another nor do I regard it as sinful if one advocates and practices inter-dining. I should, however, resist the attempt to break down the restriction in regard to the feelings of others. On the contrary, I would respect their scruples.' See: Padmanabhan, V.V.S. Aiyer, p.196.

3.3.E.V.Ramasamy (known as Periyar) opposed the practice of separate dining arrangements for Brahmin and the non-Brahmin students in Cheranmadevi Gurukulam.
(M.S.S. Pandian, Brahmin & Non Brahmin, Permanent Black, Delhi, (2007) p.190.

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3.4."E.V.R. quarrelled with Congress and Gandhi very soon after the Vaikkam affair over the question of separate dining for Brahman and non-Brahman students in a Congress-sponsored school (Gurukkulam) near Madras. The school was set up by the nationalist leader V.V.S. Iyer with the aim of imparting traditional religious education in the larger context of a commitment to patriotism and social service. After several complaints, it became clear that Iyer had arranged for separate dining facilities for several Brahman students at the request of their parents. Although Gandhi attempted to intervene through a compromise resolution, the controversy split a number of Brahman and non-Brahman Congress leaders and led to a great deal of bitterness on the part of E.V.R. and several of his principal associates. While this controversy raged, E.V.R. further attempted to interest the Tamil Nadu Congress to support a resolution for communal representation."

(Nicholas B.Dirks: "Castes of Mind" Colonialism and the Making of Modern India,

Permanent Black : Delhi 2002 (p. 258))

IV.Grievances projected by petitioners:

4.1.In W.P.No.10748 of 2009, the petitioner has come forward to challenge the order, dated 30.5.2009 passed by the first respondent District Collector, Thiruvarur District in appointing the third respondent as an Anganwadi Assistant in the Anganwadi Centre at Kattakudi, Bharathidasan Street, Needamangalam.

4.2.The case of the petitioner was that the third respondent was appointed without any norms. It was also claimed that the the petitioner belonged to scheduled caste and the third respondent belonged to backward community. The official respondents have not reserved any post for the reserved categories. It was also claimed that particular post of the Noon Meal Organizer's post was reserved for scheduled caste. When the writ petition came up on 18.6.2009, the learned Additional Government Pleader took notice.

4.3.On behalf of the District Programme Officer, ICDS, Thiruvarur, a counter affidavit, dated 29.7.2009 has been filed. In the counter affidavit, it was stated that selection has been made by the recommendations of selection committee. The third respondent is fully qualified to hold that post. With reference to the reservation, in paragraph 3 of the counter affidavit, it was averred as follows:

"3.In all Anganwadi centres married women

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candidates are eligible to apply for the Anganwadi worker irrespective of caste and separate quota for SC candidate is not prescribed either in G.O. or Government Letter or Head of Department instructions. The appointment is purely made only on merit basis. Hence I submit that the appointment is not against the Art.17 of the Constitution of India."

4.4.Mr.P.Vijendran, learned counsel appearing for the petitioner contended that number of posts became vacant both under the Nutritious Meal Scheme as well as for Anganwadi Workers under the ICDS Scheme. The Government by G.O.Ms.No.78, Social Welfare and Nutritious Meal Scheme department, dated 30.6.2008 decided to fill up the posts of Noon Meal Organisers, Cook, Assistants, Anganwadi Workers and Anganwadi Assistants numbering about 29773 posts. The break-up given was 10028 posts under Nutritious Meal scheme and 19745 under the ICDS Scheme. It was decided to recruit candidates on the basis of educational qualifications, age, communal roster as well as recruitment guidelines available on the date of the order.

V.Stand of the State:

5.1.Though it was found that the posts shall be filled up by following communal roster, but no posts have been reserved based on the communal roster. Several representations have been made. But the department was taking shelter under a letter written by the Ministry of Human Resource Development Department, Department of Women and Child Development of Government of India in F.No.1-15/03-CD-I, dated 20.10.2003. In that letter under the caption "Reservation in recruitment of Anganwadi Workers" , it was observed as follows:

"Please refer to your letter No.SSW-473/2003 dated 17.10.2003 on the subject mentioned above. The ICDS Scheme envisages Anganwadi Workers (AWWs) and Helpers to be 'honorary workers' from the local community. Consequently, no reservation for SCs/STs and OBCs in their selection has been provided under the Scheme as they are not deemed to be "Government employees".

5.2.To support the stand of the Government of India, Ministry of Human Resource Development, Department of Women and Child Development, reliance was placed upon a judgment of the Supreme Court in State of Karnataka and others Vs. Ameerbi and others reported in 2007 (11) SCC 681. In that case, the Supreme Court held as follows:

"13. The posts of anganwadi workers are not

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statutory posts. They have been created in terms of the scheme. It is one thing to say that there exists a relationship of employer and employee by and between the State and anganwadi workers but it is another thing to say that they are holders of civil post.

14. We are not oblivious to the fact that their presence in their respective villages is extremely important. They are supposed to make significant contribution to the society. They, we understand, are required to carry out a large number of activities, primary amongst them being the welfare of the children.

.....

20. Anganwadi workers, however, do not carry on any function of the State. They do not hold post under a statute. Their posts are not created. Recruitment rules ordinarily applicable to the employees of the State are not applicable in their case. The State is not required to comply with the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. No process of selection for the purpose of their appointment within the constitutional scheme exists.....

.....

28. However, rules framed under proviso to Article 309 of the Constitution of India are not attracted in the case of the respondents. They are appointed under a scheme which is not of a permanent nature, although might have continued for a long time.

29. Appointments made under a scheme and recruitment process being carried out through a committee, in our opinion, would not render the incumbents thereof holders of civil post. Our attention has not been drawn to any rule or regulation governing the mode of their recruitment.....

.....

31. One of the questions which was raised before us was in regard to the right of an anganwadi worker to contest an election. They are indisputably free to do so. A holder of a civil post may not be entitled thereto.

.....

38.....We are concerned herein with only one question viz. whether the respondents are holders of any civil post. We are, having regard to the

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materials on record, of the view that they are not."

5.3.The question that came up for consideration in that case was whether the State Administrative Tribunal constituted under Section 15 of the Administrative Tribunal Act, 1985 can entertain an application from the Anganwadi workers and whether they are holders of civil posts and whether the Tribunal can entertain applications at the instance of such Anganwadi workers in relation to their service grievances.

5.4.The letter of the Central Government quoted above has been understood by the District Programme Officer, Thiruvarur to inform that there are exempted from the communal roster while filling up the posts of Anganwadi workers and Noon Meal Assistants.

5.5.When this writ petition is pending, several other petitioners came before this court and filed writ petitions challenging the appointments of Cooks and Anganwadi workers in various noon meal centres and Anganwadi Centres without following rules of reservation as assured in G.O.Ms.No.78, dated 30.6.2008. Those writ petitions were clubbed together and were directed to be posted along with the earlier writ petition. Pending those writ petitions, this court granted an interim injunction from filling up various posts without following rules of reservation.

5.6.Despite several opportunities given, the respondent State did not file any counter affidavit. On the contrary, a letter, dated 13.4.2010 sent by the Principal Secretary/Special Commissioner to the ICDS Scheme, Tharamani, Chennai to the Additional Government Pleader was produced. In that letter, they have only relied upon the D.O. letter sent by the Central Government, dated 20.10.2003, the judgment of the Supreme Court in State of Karnataka Vs. Ameerbi reported in 2007 (11) SCC 681 and also another letter, dated 5.4.2010 sent by the Joint Secretary to Government, Social Welfare and Nutritious Meal Programme Department. In that letter, similar contentions were raised. It is useful to refer to the following passage from that letter:

> "I am to invite your king attention to your letter cited and to state that as per the Government of India Letter No.F.No.1-15/03-CD-1, Department of Women and Child Development, dated 20.10.2003, it has been stated that the Integrated Child Development Services Scheme envisages Anganwadi Workers and Helpers to be Honorary workers from the Local Community. Consequently No reservation for SCs/STs and OBCs in their selection has been provided under the scheme as they are not deemed to be

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Government employees.

2)Further the Hon'ble Supreme Court in their judgement dated 7.12.2006 in Civil appeal nos.4953-4957 of 1998 has stated that the Anganwadi Workers are not the holders of any civil post. " (Emphasis added)

VI.Issue on Hand:

6.1.The short question that arises for consideration is whether the respondent State while filling up the posts of Anganwadi workers and noon meal organisers coming under ICDS Scheme as well as under Nutritious Meal Scheme respectively should follow rules of reservation?

6.2.It must be noted that the post of noon meal organizer, Cook and Assistant Cook as well as Helper in the Anganwadi centres are not created by any rule framed under Article 309 of the Constitution. It is not a constituted service. But, nevertheless since the Government took over to maintain the scheme and had created a separate Ministry for administering the scheme and bearing the entire cost of the scheme, including provisions, utensils and overhead expenditures, salaries of all employees, it is none the less a public employment. Any appointment to such posts must be subjected to the touchstone of Articles 14 and 16 of the Constitution. Whatever may be the circumstances which prevailed earlier, the Government has now directly started implementing mammoth the scheme at the level of a Secretary to the Government and the District Collector at the District level. It is a public employment. In case of any public employment, equality doctrine with exception for rule of reservation are available subjected to qualification prescribed therein.

VII.Are the AWWs and NMOs hold Public Employment?

7.1.It must also be noted that subsequent to the judgment of the Supreme Court in State of Karnataka Vs. Ameerbi case (cited supra), the Supreme Court had an occasion to consider the status of Anganwadi workers relating to their recruitment in two subsequent decisions.

7.2.The Supreme Court in Dipitimayee Parida v. State of Orissa reported in (2008) 10 SCC 687 in paragraphs 11 and 14 held as follows:

"11. The matter relating to recruitment of Anganwadi workers is not governed by any statute. Recruitments are made pursuant to a scheme framed by the Central Government. The State, therefore, while making recruitments in such projects in exercise of its jurisdiction under Article 162 of the Constitution of India,

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may issue such guidelines and/or circulars as it may deem fit and proper. The said guidelines are ordinarily binding on all the functionaries working in terms of the "scheme" including the Selection Committees constituted for the recruitment of Anganwadi workers.

.....

14. .... It is one thing to say that the criteria fixed by the State for the purpose of the recruitment of Anganwadi workers are illegal or ultra vires but it is another thing to say that although they are valid, in their application some relaxation could be granted."

7.3.The Supreme Court vide its judgment in State of W.B. v. Kaberi Khastagir reported in (2009) 3 SCC 68, (relating to the recruitment of Angawandi workers under ICDS Scheme), had observed in paragraphs 31 and 36 as follows:

"31. Having considered the submissions made on behalf of the respective parties, we find ourselves unable to agree with the reasoning either of the learned Single Judge or the Division Bench of the High Court in holding that the writ petitioners were project employees in respect of the ICDS Project and not employees of the State Government and that their services were coterminous with the Project. Para 35 of the Scheme clearly provides that though the same was a Centrally sponsored scheme, its implementation was left to the respective State Governments with 100% financial assistance from the Central Government for inputs other than supplementary nutrition which was identified as the responsibility of the State Government. In fact, Para 47 of the Scheme, which has been extracted hereinabove, in no uncertain terms makes it very clear that even though funds for the Scheme would be provided by the Central Government, the staff would be borne on the appropriate cadres of the States which would sanction the posts in the appropriate corresponding State pay scale. In the face of such provision it is difficult to accept that the writ petitioners were project workers and not employees of the State Government.

.....

36. All the aforesaid Rules promulgated by the State Government under Para 47 of the Integrated Child Development Scheme leave little room for doubt that Respondents 1, 2 and

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3 and others similarly situated, were, in fact, State Government employees. The learned Single Judge, as well as the Division Bench of the High Court, appear to have been swayed by the submissions made on behalf of Respondents 1, 2 and 3 (writ petitioners before the High Court) that the State of West Bengal is merely a nodal agency to supervise the implementation of the Scheme which was in the nature of a project and that the employees thereunder were, therefore, project employees, overlooking the overall intention and object of the Scheme that in order to provide child care and nutrition for children and lactating mothers, the Central Government was willing to fund the entire project but left the implementation thereof to the State Governments who were authorised under the Scheme to appoint the staff of the Project, who were to be borne on the appropriate cadres of the States. Para 35 of the Scheme, which deals with the functional responsibilities, makes this position very clear." (Emphasis added)

7.4.Further, the Supreme Court had entertained a Public Interest Litigation filed by the Peoples Union for Civil Liberties (PUCL) represented by its Rajasthan unit in April, 2001. They sought legal enforcement of the Right to Food. The said matter was taken on file as WP(C)No.196/2001, and the case is now known as Right to Food case. In one of its interim order, (which is binding on the State Government) issued on 07.10.2004, the Supreme Court held that every efforts should be made that all Scheduled Caste and Scheduled Tribes hamlets/habitation in the Country to have Anganwadi centres as early as possible. Such direction may take its own time to provide necessary logistics. Filling up of posts cannot wait till Centres are established in all habitants and hamlets lived by Scheduled Castes and Scheduled Tribes.

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7.5.The Supreme Court vide its order, dated 20.4.2004, gave the following directions:

"Having regard to the aforesaid, in respect of cooked Mid-Day Meals scheme, we issue the following directions:

1.All such States and Union Territories who have not fully complied with the order dated 28th November, 2001 shall comply with the said directions fully in respect of the entire State/Union Territory, preferably, on the re-opening of the primary schools after a long vacation of 2004 and, in any case, not later than

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1st September, 2004.

2.All Chief Secretaries/Administrators are directed to file compliance report in regard to directions No.1 on or before 15th September, 2004.

3.omitted.

4.In appointment of cooks and helpers, preference shall be given to Dalits, Scheduled Castes and Scheduled Tribes." (Emphasis added)

7.6.Apart from this, it must also be noted that the Tamil Nadu State Legislature has enacted the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 (Act 45 of 1994). The Act provides for mandatory reservation in not only Educational Institutions, but also in the Appointments or posts in the services under the State.

7.7.Section 5 of the Act reads as follows:

5.Reservation in appointment or posts in the services under the State.-

(1)Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the inadequate representation in the services under the State of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State of Tamil Nadu, the reservation for appointments or posts in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine percent.

Explanation.-For the purposes of the Act, "services under the State" includes the services under-

(i)the Government;

(ii)the Legislature of the State;

(iii)any local authority;

(iv)any corporation or company owned or controlled by the Government' or

(v)any other authority in respect of which the State Legislature has power to make laws.

(2)the reservation referred to in sub-section (1) shall in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes

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and the Scheduled Tribes, be as hereunder.-

(a)	Backward Classes	Thirty percent.
(b)	Most Backward Classes and Denotified Communities	Twenty percent
(c)	Scheduled Castes	Eighteen percent
(d)	Scheduled Tribes	One percent.

7.8.Appointment in services under the State has been widely defined under the explanation provided in the said section and certainly, appointments made to Noon Meal centres and Anganwadi Centres will attract the provisions of Tamil Nadu Act 45 of 1994.

VIII.Reservation need of the hour:

8.1.It is needless to mention that such reservations will not only help empower the members of underprivileged sections of the Society to get economically empowered, but also it will bring social integration in the Civil society which is already fractured by communal and caste divisions. In the existing guidelines framed by the Government for filling up the post of workers under the Nutritious Meal scheme as well as Anganwadi workers, preference is given to residents of the village or to persons who are living with the same locality. In most of the cases, either schools or Anganwadi centres are located in the hamlets dominated by upper castes and applying preference as indicated in the guidelines, will clearly edge-out the members of scheduled caste from getting opportunity to work in such centres, since hardly there are any schools or Anganwadi centres situated in the Dalit colonies. That was why the Supreme Court also in the Right to Food case gave direction to States to make efforts that all Scheduled Caste and Scheduled Tribe colonies in the Country must have Anganwadi Centres. Such direction may take years to achieve. Social integration can be achieved by providing reservation for the underprivileged sections of the society in such employment. That is why, by its interim orders in the Right to Food case, the Supreme Court had directed giving preference in employment of dalits as Cooks, helpers in such centres as noted already.

8.2.Feeding of children by members of the Scheduled caste will go a long way in removing social disparities and practice of untouchability in different forms. Feeding of children belonged to different communities by a Dalit cook being resisted by the caste Hindus is another form of apartheid and it is not something new to this Country. Even during the Freedom struggle, controversies arose among the National leaders as noted above.

8.3.After bitter experiences, it was emphasised that by communal feasting and food being served to various groups by engaging cooks from underprivileged society will remove

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instantaneously some form of untouchability and will be a milestone in our march to an egalitarian society.

8.4.In Bharat Sevashram Sangh v. State of Gujarat reported in (1986) 4 SCC 51, the Supreme Court emphasised the purpose of providing reservation in Schools and exhorted such provision found in the School Education Act made by the Gujarat State. It is necessary to extract the following passage found in paragraph 8 of the judgment:

> "8. The next section which was attacked before us is Section 34 of the Act. Section 34(1) of the Act provides that 15 per cent of vacancies of the teaching staff of a registered private school shall be filled up by persons belonging to the Scheduled Castes and the Scheduled Tribes. It is argued that the above provision interferes with the managerial function. As already mentioned a large number of teachers whose salaries are met by the grants given by the State under the Grants-in-Aid Code are employed by the managements. The State should therefore, have a voice in the method of recruitment. The State should also make provision for reservation of certain percentage of seats for members belonging to the Scheduled Castes and the Scheduled Tribes under Article 16 (4) of the Constitution. The insistence on having teachers belonging to the Scheduled Castes and the Scheduled Tribes is also in the public interest. Children should be brought up in an atmosphere where there is opportunity to mix freely with students and teachers belonging to traditionally disfavoured communities also. The opportunity to show reverence to teachers belonging to the Scheduled Castes and Scheduled Tribes will in the long run enable the child brought up in that atmosphere to shed the feeling of superiority over members belonging to the Scheduled Castes and the Scheduled Tribes. Such an atmosphere would also be congenial to the development of a society consisting of persons free from feelings of hatred or contempt towards others. ..." (Emphasis added)

8.5.It is surprising to note that the State is taking umbrage under the judgment of the Supreme Court in State of Karnataka Vs. Ameerbi case, but not referring to the subsequent judgments in Dipitimayee Parida Vs. State of Orissa and State of W.B. Vs. Kaberi Khastagir's case (cited supra) as well as the interim order passed by the Supreme Court in PUCL's case. It

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also ignores the scheme of appointment formulated in this State which is vastly different from the State of Karnataka.

XI.Relief Granted:

9.1.In the light of the above, this court has no hesitation to reject the stand taken by the respondent State and by giving a positive direction to provide for Reservation in terms of Tamil Nadu Act 45/1994, and also in the light of the interim order dated 20.4.2004 passed by the Supreme Court in W.P.(C) No.196 of 2001 in People's Union for Civil Liberties, Rajasthan Vs. Union of India and to provide for reservation for SC/STs. Till such time they provide such rules of reservation, the State is forbidden to fill up such large number of posts (as many as 20000 posts) without due representation to SC/ST communities ignoring the Constitutional mandate.

9.2.In the light of the above, these writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions stand closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

vvk

To

1.The District Collector,
Collectorate,
Thiruvarur District.

2.The Project Officer
for Children Development,
Needamangalam,
Mannarkudi Taluk,
Thiruvarur District.

3.The Special Commissioner &
Government Secretary,
The Government of Tamil Nadu,
Social Welfare Department,
Fort St. George, Chennai-9.

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4.The Secretary,
The Department of Adi Dravidar Welfare,
Fort St. George,
Chennai-9.

+8ccs to Mr.P.Vijendran, Advocate Sr 26036
+1cc to Govt. Pleader Sr 25795

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km/27.4.

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