

Achintya Deb Dasgupta & Anr. Vs Mr. Basant Prtap Singh & Ors.

Court: SUPREME COURT OF INDIA

Date of Decision: Dec. 6, 2017

Acts Referred: [Constitution of India, Article 16](#) - Dissolution of a District or a Regional Council

Hon'ble Judges: Ranjan Gogoi, J; R. Banumathi, J

Bench: Division Bench

Advocate: PASHUPATHI NATH RAZDAN, ARJUN GARG

Judgement

1. We have heard Shri K.K. Venugopal, learned Attorney General for India in support of the defence put up by the contemnors Nos. 2 and 3.

The present Contempt Petition has been filed alleging willful disobedience of the directions contained in the order of this Court dated 8th October,

2013 passed in Civil Appeal No.9096 of 2013 [2013(4) S.C.T. 807 : (2013) 10 SCC 772.]. The issue relates to the question as to whether

reservation under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955 (hereinafter referred to

as "the 1955 Act") would be available in cases of promotion to disabled persons.

2. Learned Attorney General may be correct in his assertion that the judgment of this Court dated 8th October, 2013 passed in Civil Appeal

No.9096 of 2013 does not specifically contemplate reservation in promotions for disabled persons. Learned Attorney may be equally correct in

asserting that in an earlier contempt proceeding this Court had decided the issue of contempt against the petitioners.

3. It appear to us from the materials on record that there is subsequent judgment of this Court in Rajeev Kumar Gupta and others v. Union of India

and others, 2016(4) S.C.T. 88 : 2016(5) Recent Apex Judgments (R.A.J.) 75 : (2016) 13 SCC 153 wherein the view has been taken that the

quota provided under the 1955 Act for disabled persons has to be provided regardless of whether the same is filled up by way of direct

recruitment or promotion. In a way we will understand the decision of this Court in Rajeev Kumar Gupta (supra) to be carrying forward the law

expounded by this Court in the initial judgment dated 8th October, 2013 passed in Civil Appeal No.9096 of 2013.

4. From the materials on record we will find that the decision in Rajeev Kumar Gupta (supra) has been referred to a larger Bench in order to

decide the question as to whether the reservation as an exception to Article 16 of the Constitution of India can be provided to disabled persons,

apart from Scheduled Castes and Scheduled Tribes candidate for whom a specific provision has been made in the Constitution of India by way of

an amendment thereof.

5. In the above circumstances, the issue with regard to commission of contempt insofar as the order of this Court dated 8th October, 2013 passed

in Civil Appeal No.9096 of 2013 is concerned is being kept in abeyance until a full consideration thereof . However, in view of the later

pronouncement of this Court in *Rajeev Kumar Gupta (supra)* which, according to us, would hold the field until the issue referred is decided by a

larger Bench, we are of the opinion that the respondents should make it clear to the Court by means of an affidavit as to their obligation, if any, to

provide reservation to the contempt petitioners on the strength of the decision of this Court in *Rajeev Kumar Gupta (supra)*.

6. This may appear to be extending the contours of the contempt petition. However, such extension, in our considered view, is necessary to give

effect to the decision of this court in *Union of India v. National Federation of the Blind and others*, 2013(4) S.C.T. 807 : (2013) 10 SCC

772 and further expounded in *Rajeev Kumar Gupta (supra)*. The affidavit of the contemnors Nos. 2 and 3 be filed within four weeks from today.

Further personal appearance of the said contemnors Nos. 2 and 3 will not be required until specifically ordered.

7. After hearing the learned counsel for the alleged contemnor - respondent No.5 (i.e. M.P. Housing and Infrastructure Development Board

through Mr. Nitesh Vyas, Commissioner), the contempt proceedings qua the said respondent No.5 shall stand dropped.

List the matter on 31st January, 2018.