

STATE OF PUNJAB VS. DAVINDER SINGH

Citation: Civil Appeal No. 2317 of 2011; 2024 INSC 562

7 Judge Bench: Chief Justice (Dr.) Dhananjaya Y. Chandrachud, Justice Bhushan R. Gavai, Justice Vikram Nath, Justice Bela M. Trivedi, Justice Pankaj Mithal, Justice Manoj Misra, Justice Satish C. Sharma

Date of Order: 1st August 2024

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FACTS

Government of Haryana issued notification dated 9 November 1994, which classified SCs into 2 categories – Block A (36 castes in the list of SC) & B (Chamars, Jatia Chamars, Rahgars, Raigars, Ramdasias or Ravidasias). Within the quota reserved for SCs in service recruitment, 50% of vacancies were reserved for Block A and other 50% for Block B. High Court of Punjab

and Haryana vide judgement dated 6 July 2006 quashed the notification being unconstitutional as per the case of '*EV Chinnaiah v. State of Andhra Pradesh*'¹. SLPs were filed and tagged with other appeals.

State Legislature of Punjab enacted the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act 2006 (hereinafter "**Punjab Act**" or "**Act**") for reservation in services for members of SC community. Section 4(2) of the act provided reservation of 25% to SCs and 25% to backward community. Section 4(5) states that 50% of the reservation granted to SC will be given to Balmikis and Mazhabi Sikhs. High Court of Punjab and Haryana vide judgement dated 29 March 2010, relied on *Chinnaiah* and declared section 4(5) unconstitutional. State filed an appeal against the High Court judgement and argued that the judgement was inconsistent with '*Indra Sawhney v. Union of India*'². 3 judge bench referred this case to larger bench on 20 August 2014.

State Legislature of Tamil Nadu enacted the Tamil Nadu Arunthathiyars Act 2009, which provided 16% reservation of seats to Arunthathiyars (the caste of Arunthathiyar, Chakkiliyan, Madari, Madiga, Pagadi, Thoti and Adi Andhra from the list of seventy-six SCs) in educational institutes (Section 3) and services (Section 4). Proceedings against the act on the ground of contradiction with *Chinnaiah* was filed in Supreme Court and tagged along with other matters.

ISSUE

1. Whether sub-classification of a reserved class is permissible under Article 14, 15 and 16;
2. Whether the Scheduled Castes constitute a homogenous or a heterogenous grouping;
3. Whether Article 341 creates a homogenous class through the operation of the deeming fiction; and
4. Whether there are any limits on the scope of sub-classification.

RULE

Cases	Principle Cited for
EV Chinnaiah v. State of Andhra Pradesh, (2005) 1 SCC 394	Scheduled Castes constitute a single homogeneous class under Article 341 and cannot be sub-classified by States for reservation purposes.

¹ (2005) 1 SCC 394

² (1992) Supp (3) SCC 217

Indra Sawhney v. Union of India, (1992) Supp (3) SCC 217	Article 16(4) permits sub-classification among backward classes, mandates exclusion of the creamy layer, and ordinarily caps reservations at 50%.
State of Madras v. Champakam Dorairajan, 1951 SCR 525	Reservations in educational institutions based solely on caste violate Article 29(2), leading to the First Constitutional Amendment introducing Article 15(4).
B Venkataramana v. The State of Madras, AIR 1951 SC 229	Reservation in public employment cannot exclude eligible candidates through caste-based communal allocation beyond the scope of Article 16(4).
DS Nakara v. Union of India, 1983 1 SCC 305	Sub-classification within a homogeneous class is valid only if founded on an intelligible differentia having a rational nexus with the object sought to be achieved.
Balaji v. State of Mysore, AIR 1963 SC 649	Reservation must remain reasonable, ordinarily not exceed 50%, and backwardness cannot be determined solely on the basis of caste.
K.C. Vasanth Kumar vs. State of Karnataka, 1985 Supp SCC 714	Sub-classification of backward classes into 'Backward' and 'More Backward' is constitutionally permissible where based on genuine differences in the degree of backwardness.

ANALYSIS

1. Whether sub-classification of a reserved class is permissible under Article 14, 15 and 16

i. The jurisprudence on reservation

The Apex Court first had to settle what reservation is, because that controls whether sub-classification is even the right question to ask. It traces two competing visions i.e., the cases of *Champakam Dorairajan* and *B. Venkataramana*, where reservation was treated as an exception to equality, permissible only because the Constitution expressly said so, versus the substantive-equality reading that broke through in *State of Kerala v. N.M. Thomas*³, where the Court held Article 16(4) is not an 'exception' to 16(1) but an "illustration of constitutionally sanctified classification." The second step was Article 335, which the Hon'ble Court traces through Rangachari, Indra Sawhney, Nagaraj, and

³ (1976) 2 SCC 310

Jarnail Singh, concluding in its own final holding that Article 335 is not a 'limitation' on 16(4) but a restatement of the need to weigh SC/ST claims; efficiency must be read as promoting inclusion, not capping it.

ii. Permissibility under Article 14

The Hon'ble court referred to the test laid down in *Nakara* as the operative framework: (a) is the class homogenous/similarly situated for the specific purpose of the law? If yes, it cannot be sub-classified. If no, it can be, provided (b) there is an intelligible differentia, and (c) that differentia has a rational nexus with the object. This is the analytical engine the rest of the judgment runs on. It also fixes the outer boundary: 'micro-classification' is impermissible because the differentiating principle stops being independent of the purpose, it collapses into an arbitrary sorting device rather than a real category.

iii. Sub-classification in reservations: tracing the journey through Balaji, Vasanth Kumar and Indra Sawhney

The issue of sub-classification was first dealt with in *Balaji*⁴, which struck down Backward/More-Backward sub-classification, but for a narrow reason: it swept in 90% of the population, not because sub-classification is inherently barred. Justice Chinnappa Reddy's opinion in *Vasanth Kumar*⁵ pushed back, saying sub-classification is valid in principle if both sub-groups remain genuinely 'backward' relative to the forward class. *Indra Sawhney* then affirmatively endorsed sub-classification as sometimes 'constitutionally necessary' to prevent the less-backward sub-group from cornering all the seats. *Chinnaiah* had read Indra Sawhney's silence on SCs (Jeevan Reddy J. "keeping aside" SCs/STs at para 781) as an *exclusion* of SCs from this principle. The present Bench rejected that reading as the silence was contextual (about creamy-layer identification for OBCs), not a ruling that SCs are immune from sub-classification.

iv. State's power under Articles 15 and 16

This is where the Court directly overturns Chinnaiah's legislative-competence reasoning. Justice Hegde in Chinnaiah had held the AP Act exceeded state legislative competence under Entry 41/List II and Entry 25/List III. The present bench called this a 'category error': legislative competence is an Article 245/246 question; the power to sub-classify for affirmative action is a substantive-equality question traceable to

⁴ Balaji v. State of Mysore, AIR 1963 SC 649

⁵ K.C. Vasanth Kumar vs. State of Karnataka, 1985 Supp SCC 714; 1985 Supp 1 SCR 352

Articles 15(4)/16(4) themselves, once the state has fulfilled its baseline reservation obligation. Framing it as a competence problem was the wrong doctrinal box from the start.

2. Whether the Scheduled Castes constitute a homogenous or a heterogenous grouping

The Hon'ble Court referred entirely to historical and empirical evidence, deliberately avoiding pure doctrine here, because Chinniah's homogeneity claim was itself presented as a factual/definitional premise, so it had to be rebutted on the same terrain. It traces SC identification back to the "depressed classes" concept in the 1935 Government of India Act, through the Constitution (Scheduled Castes) Order 1950, noting that many castes are notified as SC only in specific districts within a state, which itself defeats any claim to uniform, undifferentiated status. It then draws on field sociology: A.M. Shah's Gujarat studies and the Robert F. Kennedy Center/Navsari survey of 1,589 villages showing "horizontal untouchability" between Dalit sub-castes (separate wells, temples, burial grounds), and Uma Ramaswamy's Mala/Madiga literacy-gap data from Andhra Pradesh. The reasoning move: if SCs practiced graded untouchability among themselves and show measurable disparities in literacy and representation, the "single homogenous class" premise that Chinniah's entire structure rested on is empirically false, clearing the ground for issue (a)'s doctrine (heterogeneous classes can be sub-classified) to actually apply.

3. Whether Article 341 creates a homogenous class through the operation of the deeming fiction

i. Scope of deeming fiction

This is a pure statutory-interpretation exercise on the word 'deemed.' The Hon'ble Court first discussed the scope of deeming fiction by referring to the principles on the operation of legal fictions. The first principle is that a fiction cannot be stretched beyond the purpose for which it created.⁶ And the second principle is that the legal fiction must be followed to its logical consequences within that purpose.⁷

ii. Article 341(1) does not create a deeming fiction

The Hon'ble Court observed that Article 341 (1) is essentially a procedural notification power; 'deemed' here just means the notified castes are to be treated as

⁶ Bengal Immunity Company Ltd v. State of Bihar, (1955) SCC OnLine SC 2

⁷ East End Dwelling Co. Ltd. V. Finsbury Borough Council, LR 1952 AC 109

Scheduled Castes, not that an artificial legal state is being constructed. The Court flags *Punit Rai v. Dinesh Chaudhary*'s⁸ contrary observation as obiter and wrong.

The court further observed that even granting a fiction exists, its only purpose is identification, distinguishing SC-notified castes from everyone else. Nothing about 'identification' logically entails 'internal homogeneity.' The Court explicitly says *Chinnaiah*'s reliance on *N.M. Thomas* for this proposition was erroneous.

iii. Article 341(2) only bars two things

The Hon'ble court held that Article 341(1) read with Article 341(2) only has power of inclusion of an unlisted caste, and exclusion of a listed one, and even then, only Parliament can do either. Sub-classification does neither: no caste is added to or struck off the Presidential List; the List is simply used to internally reallocate the existing 15% quota. So 341(2) is simply the wrong provision to strike this down under.

4. Whether there any limits on the scope of sub-classification

i. Criteria for sub-classification

The Hon'ble Court looked into the contrary opinions in *Indra Sawhney* by Justice Kuldeep Singh against the majority on what 'backward class' under Article 16(4) actually requires. The Court adopts the majority/Jeevan Reddy line i.e., social backwardness is the primary criterion, and inadequate representation 'in the services of the State' is the indicator used to measure it, not a free-standing alternative test. This matters practically, a sub-category cannot just point to low headcount; it must show that low headcount stems from backwardness, not incidental factors.

ii. Limits of sub-classification

a. Models of sub-classification – The Hon'ble Court distinguishes:

- (i) Preference model (a sub-group gets first claim on seats) - unconstitutional in its pure form (100% preference could exhaust all seats, functionally excluding other SC castes, which would violate 341(2) by amounting to de facto exclusion), but is constitutional if preference is capped at a defined percentage.
- (ii) Exclusive model (a fixed % is ring-fenced with carry-forward under 16(4-B)), it is constitutional, provided it does not consume the entire SC quota.

⁸ 2003 8 SCC 204

The test throughout: does the scheme, in operation, foreclose any Presidential-List caste from ever competing for SC seats? If yes, unconstitutional regardless of label.

- b. The Hon'ble Court also resolves the caste-class conundrum: can a single caste itself be the sub-classification unit? Yes, following P. Rajendran and Indra Sawhney's approval of caste-as-a-homogenous-unit, but each caste-level classification still needs its own backwardness justification; caste can be the unit of analysis without becoming the sole basis the way Chinnaiah's opponents feared.

iii. Scope of judicial review

The Hon'ble Court sets the evidentiary bar the state must clear, distinguishing two different burdens that had gotten conflated post-*Nagaraj/Jarnail Singh*:

- a. The state does not need to prove SCs-as-a-whole are backward (settled by *Indra Sawhney*).
- b. The state does need quantifiable data on inter-se backwardness before it can sub-classify, this is a new, narrower burden, not reopening the first question.
- c. On 'adequate representation,' the Court also corrects Nagaraj's cadre-strength approach: representation must be measured for effective representation of the sub-group, not diluted across the whole cadre, because using cadre strength as the unit conflates quantitative headcount with the qualitative purpose the indicator is meant to serve.

CONCLUSION

6-1 majority, held that sub-classification of Scheduled Castes is permissible to allocate separate quotas for the more disadvantaged within the SC category, with Chief Justice D.Y. Chandrachud delivering the lead opinion; and Justice Bela Trivedi dissenting that Chinnaiah is correct law and deserves to be affirmed not overruled.