

Subject:

Para
No.

- F-18 -

Directorate of Tribal Welfare has referred the file to this section for the opinion on the claims of Ranchi Association to extend the benefit of reservation in respect of filling up the posts for the Schedule Tribes and reservations in allotment of seats for higher education under A&N Administration in the wake of the judgment dated 11/2/2004 passed by Hon'ble Supreme Court in S. Pushpa & Ors -Vs- Shivchanmugavelu & Ors.

After perusal of the judgment passed by Hon'ble Supreme Court in the said case, the following points emerged:-

1. The observations of Hon'ble Supreme court have been confined on the fact in issue of the particular case wherein Government of Pondicherry called the names of eligible Schedule Caste candidates from near by states through employment exchange. as sufficient number of such candidates were not available in the UT of Pondicherry and after holding interview, a final selection list was prepared in which 29 out of 55 were migrant schedule tribes. Selection and appointment of such migrant candidates were set aside by the Central Administrative Tribunal (Madras Bench) the appeal was preferred before Hon'ble Court by special leave. Hon'ble Court found such selection of the migrant schedule caste candidates as valid against the quota reserved for the schedule castes on the post of selection grade teachers.
2. In the same judgment, Hon'ble Supreme Court denied other benefits like scholarship, admission to educational institution etc to any migrant schedule caste candidate with further observation that the benefits should be confined to the Schedule castes of the UT only.
3. Department has pointed out in para 42/n that the present decision of the Supreme Court runs counter to the decision of Calcutta High Court passed in Local Born Association case which was later confirmed by the Hon'ble Supreme court by dismissing the S.L.P. In this connection, it is to say that