

MOST IMMEDIATE

No.36036/2/2007-Estt.(Res.)

Government of India

Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

Commr-Cum-Secy (P&T)

New Delhi, Dated the 29th March, 2007

To

R. D. No. 701

Date: 11/6/07

The Chief Secretaries of all the States/Union Territories.

Subject: - Supreme Court judgement in the matter of M. Nagaraj and Others V/s. Union of India and Others - regarding.

Sir,

I am directed to say that the Supreme Court had in some judgements interpreted the Constitution and the law in a manner that seemed to affect the interests of the Scheduled Castes and Scheduled Tribes. For example, the Supreme Court in the case of Indra Sawhney V/s. Union of India had held that reservation in promotion for the Scheduled Castes and Scheduled Tribes was not permissible under the provisions of the Constitution. In the same case, the Hon'ble Court held that the number of vacancies to be filled by reservation in a year including the backlog vacancies would not exceed 50 per cent of the total vacancies. In the case of S. Vinod Kumar V/s. Union of India, the Supreme Court held that lower qualifying marks/lesser level of evaluation were not permissible for Scheduled Caste/ Scheduled Tribe candidates in the matter of promotion. In the matter of Virpal Singh Chauhan, Ajit Singh and some other cases, the Supreme Court had held that if an SC/ST candidate was promoted earlier, by virtue of the rule of reservation roster, than his senior general candidate and the senior general candidate was promoted subsequently on to the said higher grade, the general candidate would regain his seniority over such previously promoted SC/ST candidate.

2. The Parliament, in order to address these issues had passed four amendments namely, the 77th Amendment, the 81st Amendment, the 82nd Amendment and the 85th Amendment to the Constitution. These amendments were challenged in the Supreme Court mainly on the ground that these altered the basic structure of the Constitution. The Hon'ble Supreme Court in the matter of M. Nagaraj & Others V/s. Union of India & Others [Writ Petition (Civil) No.61/2002] has upheld all these four amendments. The Hon'ble Court concluded the judgement with the

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