

finally selected in the said examination. He was also allotted Indian Information Service Grade A. However, the appellant did not receive any final posting order, which resulted in filing of many representations to the Union of India.

Dismissing the appeal with costs, the Supreme Court

Held:

The appellant is not entitled to get the Scheduled Tribe certificate. (Para 16)
The condition precedent for granting tribe certificate is that one must suffer disabilities wherefrom one belongs. The offshoots of the wedlock of a tribal woman married to a non-tribal husband—Forward Class (Kayastha in the present case) cannot claim Scheduled Tribe status. The reason being that such offshoot was brought up in the atmosphere of Forward Class and he is not subjected to any disability. However, the situation will be different in a case where a tribal man marries a non-tribal woman. In that case the offshoots of such wedlock would obviously attain the tribal status. (Paras 14 and 6)

Valtsamma Paul v. Cochin University, (1996) 3 SCC 545; 1996 SCC (L&S) 772; (1996) 33 ATC 713, relied on

Madhushree Dayandes Rastogi v. Vishwanath Pandu Bora, 1995 Supp. (2) SCC 549; *P. Chandrasekharappa v. State of Karnataka*, (1995) 6 SCC 305, cited

The object of Articles 341, 342, 15(4), 16(4) and 16(4-A) is to provide preferential treatment for the Scheduled Castes and Scheduled Tribes having regard to the economic and educational backwardness and other disabilities wherefrom they suffer. So also, considering the typical characteristic of the tribal including a common name, a contiguous territory, a relatively uniform culture, simplistic way of life and a tradition of common descent, the transplantation of the outsiders as members of the tribe or community may dilute their way of life apart from the fact that such persons do not suffer any disabilities. (Para 9)

The appellant has referred to a circular dated 4-3-1975 issued by the Government of India, Ministry of Home Affairs on the subject "Status of children belonging to the couple one of whom belongs to Scheduled Castes/Scheduled Tribes". He particularly referred to the portion when a Scheduled Tribe woman marries a non-Scheduled Tribe man, the children from such marriage may be treated as members of the Scheduled Tribe community, if the marriage is accepted by the community and the children are treated as members of their own community. Such circulars issued from time to time, not being law within the meaning of Article 13 of the Constitution, it would be of no assistance to the appellant on the face of the constitutional provisions. Further, the facts of this case are however different with the facts in which the circular was sought to be clarified. (Para 5)

The marriage of the appellant's mother a tribal woman to a Forward Class husband was a court marriage performed outside the village. Ordinarily, the court marriage is performed when either of the parents of bride or bridegroom or the community of the village objects to such marriage. In such a situation, the bride or the bridegroom suffers the wrath of the community of the village and runs the risk of being ostracised or excommunicated from the village community. Further, the couple settled down in a city and their son, the appellant was also born and brought up in the environment of forward community. As such, the appellant did not suffer any disability from the society to which he belonged. The visits of the appellant to the village during recess/holidays and cordial relationship between the appellant and the village community would amount to acceptance of the appellant by the village community. By no stretch of imagination, a casual visit

to the relative in a village would provide the status of permanent resident of the village or acceptance by the village community as a member of the tribal community. (Paras 6 and 7)

D. Constitution of India — Arts. 342, 341, 16, 15(4), 14 and 21 — Scheduled Castes/Scheduled Tribes — Claim of status of, by procuring fake/bogus caste/tribe certificate — Held, is a fraud under the Constitution — If one obtains appointment/admission from reserved quota on the basis of such bogus certificate, a meritorious reserved candidate may be deprived of reserved category for whom the post is reserved. This would lead to violation of Arts. 14 and 21 — SC/ST certificate is not a bounty to be distributed — To sustain the claim, one must show that he/she suffered disabilities—socially, economically and educationally cumulatively — Therefore, before issuing the caste/tribe certificate, the authority concerned is duty-bound to satisfy itself that the applicant suffered the aforesaid disabilities — Authority issuing such certificates in a routine manner would be committing a dereliction of constitutional duty — Fraud — Scheduled Castes and Tribes — Caste certificate (Paras 14 and 15)

Dr. Jai Prakash Gupta v. Addl. Commr., Tribal Development, (1994) 6 SCC 241; 1994 SCC (L&S) 1349; (1994) 28 ATC 259; *Director of Tribal Welfare, Govt. of A.P. v. Lovell Gari*, (1995) 4 SCC 32; 1995 SCC (L&S) 914; (1995) 30 ATC 168; *Punit Rai v. Dinesh Chaudhary*, (2003) 8 SCC 204; *Valtsamma Paul v. Cochin University*, (1996) 3 SCC 545; 1996 SCC (L&S) 772; (1996) 33 ATC 713, relied on

E. Constitution of India — Arts. 342 and 16 — Scheduled Tribe — Reservation for — Woman of Forward Class marrying a tribal man — Status of — If could be treated as tribal — If entitled for appointment to post reserved for ST — Held, such woman cannot automatically attain the status of tribal unless accepted by the community concerned — Mode of the said acceptance, indicated — Mere acceptance of the marriage by the community itself would not entitle such woman to claim the appointment to the post reserved for ST — Service Law — Reservation — Scheduled Castes and Tribes — Reservation (Para 6)

F. Words and Phrases — "Tribe" — Meaning of — Earlier decision of Supreme Court and certain books referred to in this regard — Constitution of India, Arts. 342, 15(4), 16(4) and (4-A) — Scheduled Castes and Tribes — Tribe — Meaning of (Para 8)

State of Kerala v. Chandromohanam, (2004) 3 SCC 429; 2004 SCC (Cri) 818, referred to
Dr. Jai Prakash Gupta: The Customary Laws of the Munda and the Oraon; Bhowmik, K.L. *Tribal India: A Profile in Indian Ethnology*, referred to

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Advocates who appeared in this case:

M.N. Krishnamani, Senior Advocate (Rana Ranjit Singh and Samyaji Pani, Advocates, with him) for the Appellant;
Vikas Singh, Additional Solicitor General (Ashish Kumar, V.K. Verma and P. Parameswaran, Advocates, with him) for the Respondents;
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Yours faithfully,