

Union of India

Vs

Vellayani M. A. Robinson and Others

Transfer Petition Nos. 495-99 of 1990 with W.P. Nos. 949, 948, 953, 954, 966, 930, 965, 974 of 1990 and 972, 971, 1114 of 1989

(M. H. Kania, Ranganath Misra K. N. Singh JJ)

11.09.1990

ORDER

1. Heard learned Attorney General and Mr. G. Ramaswamy. We have been heard other counsel appearing for the parties. Writ Petition Nos. 2874, 5794 and 4733 of 1990 pending before the Kerala High Court, Writ Petition No. 2716 of 1990 pending before the Delhi High Court and Writ Petition No. 1350 of 1990 pending before the Allahabad High Court shall stand transferred to this Court for being disposed of in accordance with law.

2. On August 30, 1990 this Court has directed that no writ petition or application for interim relief would be heard by the High Courts challenging the Mandal Commission Report. To give effect of the real intention of the court in making that direction and to save judicial time of the different High Courts being not spent over the same matter which this Court would be dealing with and taking into account the importance of the matter, we direct that the writ petitions challenging the Mandal Commission Report and the Central Government's direction to implement it, shall not be filed in the High Courts under Article 226 of the Constitution, on the other hand, the same may be filed under Article 32 of the Constitution in this Court so that a consolidated hearing of the matter may be undertaken. There are several writ petitions listed today. In most of them challenge is to the Mandal Commission Report and its implementation. In some, though the main thrust is the Commission Report, other reliefs have also been indicated. Rule shall be issued in each of these applications requiring cause to be shown by the respondents within four weeks. We have been told that there are many other petitions pending in the Registry wherein challenge is also to be Mandal Commission Report. Subject to the writ petitions being registered and on being free from defects these petitions are covered by our order of today and rule nisi therein shall be taken to have been ordered and notice shall be made returnable on the same day to which we fix the cases for hearing on November 6, 1990, Counter-affidavits, shall be filed on or before October 12, 1990; rejoinder, if any, may be filed within two weeks thereafter. Parties shall have liberty to file their documents, if any, by October 31, 1990. Registry shall not accept any document or affidavit after that date. Briefs should be prepared forthwith by the Registry and circulate it. These cases shall appear as the first bunch for hearing before an appropriate bench on November 6, 1990. The applications for interim directions are not dealt with today but liberty is given to counsel for the respective cases where stay petitions have been filed to move the same as and when interim directions are considered imminently necessary. We would like to point out that learned Attorney General has stated to us on the basis of the notification made by the Central Government that government's direction regarding the implementation of the Mandal Commission does not apply to filling of vacancies in posts for which the process of selection has commenced prior to August 7, 1990. Learned Attorney General further submits that in view of that position no process of selection which has not commenced prior to

August 7, 1990 is likely to reach at stage of selection prior to the date of hearing fixed by us.

3. Mr. Ramaswamy appearing for the petitioner in Writ Petition No. 4733 of 1990 which was pending before the Kerala High Court states that more than two prayers have been made in the said petition; the first two relate to Mandal Commission Report and the others have no connection with it. He wants liberty to delete the remaining prayers except the two confined to Mandal Commission and states that for the deleted reliefs he would file in independent petition. Learned Attorney General has no objection to the prayer. We accordingly direct that it may be done.

4. Writ Petition No. 1802 of 1990 shall also be transferred to this Court from the Delhi High Court.

5. Petitioners in all the writ petitions have agreed to serve copies of their petition on the Central Agency by September 13, 1990. Copies of the counter-affidavits, whether common or specific, shall be served on counsel for the petitioners in each of the cases, by the time under the time frame counter-affidavits have to be filed.

6. Applications for intervention or impleadment shall be brought up for orders on October 3, 1990.

7. Issue notice to the State Governments and the Union territories through their respective Chief Secretaries requiring them to cause appearance to be filed in this Court which three weeks from now. Along with the notice, a copy of today's order shall be sent.

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