

SUPREME COURT OF INDIA

Ajit Singh and others-III

Versus

State of Punjab and others

(Dr. A.S. Anand, CJ, S.B. Majmudar and G.B. Pattanaikm S.P. Kurdhukar and M. Jagannadha Rao, JJ)

Review Petitions (C) Nos. 1504-06 of 1999 in IAs Nos. 1-3 of 1997

in Civil Appeal Nos. 3792-94 of 1989

08.12.1999

JUDGMENT

1. Delay condoned

2. We are of the view that there are no merits in the review applications.
3. In *Ajit Singh II v. State of Punjab* it was stated (at pp. 229-30) relying upon earlier judgments starting from 1963, that Article 16(4) was only an enabling provision and did not impose any constitutional duty nor confer any fundamental right for reservation. The observations at p. 691 by Jeevan Reddy, J. in *Indra Sawhney* relied upon in the review applications do not deal with the above issue. It was the view of two constitution Bench Judgments of this Court, on 16.03.1963 in *M.R. Balaji. v. State of Mysore* and another in 1968 in *C.A. Rajendran v. Union of India* and also two three judgments of this Court in *P&T Scheduled Caste/Tribe Employees Welfare Assn. (Regd.) v. Union of India* and *State Bank of India Scheduled Caste/Tribe Employees Welfare Assn. Vs. State Bank of India* that Article 16(4) was only an enabling provision. The view was nowhere dissented in *Indra Sawhney* much less at p. 691 by Jeevan Reddy, J.
4. It appears to us that all the nine Judges in *Indra Sawhney* were of the same view that Article 16(4) was not in the nature of a fundamental right and was only an enabling provision. In this connection, reference may be made with advantage to the view of Jeevan Reddy J. (at pp. 667-735) referring to Subba Rao, J. That Article 16(4) was a provision conferring a "power" and referring to Article 16(1) alone as a guarantee and not to Article 16(4); to the view of Sawant, J. (at p. 517, para 43), Pandian, J. (at p. 407, para 168), Thmmen, J. (at p. 449, para 284), Sahai, J. (at p. 580) with whom Kuldip Singh J. agreed., -- all expressly stating that Article 16(4) was only an enabling provision. Thus, the majority of the learned Judges expressly stated that Article 16(4) was an "enabling provision". Merely because the reservation for backward classes was created as a reasonable classification and justified at p. 691, that does not detract from the view that Article 16(4) was only an enabling provision.
5. For the aforesaid reasons, we find there is no merit in these review petitions which are

dismissed.