

W.P.No.30674 of 2026 etc, Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Writ Petition Nos.

30674, 33413, 29150, 30878, 30881, 30886,
30888, 30596, 27620, 27628, 27658, 27663,
28045, 28048, 28478, 28500, 29269, 29272,
28485, 28489, 28495, 30918, 31180, 32376,
32534 of 2026

Orders Reserved On

18.08.2026

27152 & 24755 of 2026

19.08.2026

30658 of 2026

20.08.2026

ORDERS PRONOUNCED ON: 27.08.2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.30674, 33413, 29150, 30878, 30881, 30886, 30888, 30596,
27620, 27628, 27658, 27663, 28045, 28048, 28478, 28500, 29269, 29272,
28485, 28489, 28495, 30918, 31180, 32376, 32534, 24755, 27152 and
30658 of 2026

and

W.M.P.Nos.33684, 33685, 33942, 33676, 33602, 33932, 35767, 34282,
31997, 35565, 35566, 30338, 16842, 16844 of 2026

W.P.No.30674 of 2026:

Thelagam

W/o.P.G.Baskara Pandian,

Mother and Natural Guardian of Minor

B.Kanishhka aged about 16 years

residing at BG 38, T3822, Alruwais housing
complex 2,

Aldhafra Region, Abu Dhabi,

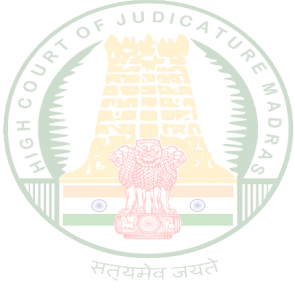
Postbox No.12322

Now come down to Puducherry, India,

Residing at No.23, Anna Nagar Main Road,

Anna Nagar Extension, Puducherry-605 005.

..Petitioner(s)



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Vs.

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1.The Union Territory of Puducherry

Rep. by the Chief Secretary
Chief Secretariat, Beach Road,
Puducherry-605 001.2.The District Collector
Office of the District Collector
New Collectorate Buildings,
Vazhudavoor Road,
Pettaiyanchathiram,
Puducherry-605 009.3.The Tahsildar
Taluk office,
Puducherry Taluk,
100 feet Road,
Mudaliarpeth, Puducherry-605 004.4.The Centralised Admission Committee
(CENTAC)
Rep.by its Coordinator, Government of
Puducherry, PEC Campus, Pillaichavadi,
Puducherry – 605 014.(R4 impleaded vide order of this Court dated
18.08.2026 made in W.M.P.No.36003 of 2026 in
W.P.No.30674 of 2026)

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the third respondent in proceedings No.2010/TOP/C/2026 dated 18.02.2026 under the heading (Community certificate issued to migrants belonging to other backward class) and Proceedings No.4557/TOP/D/2026 dated 20.04.2026 refusing to grant community certificate based on Puducherry nativity, quash the same and



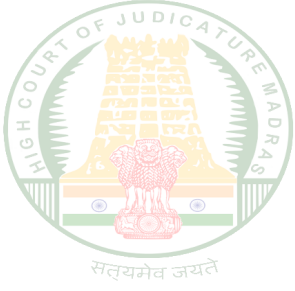
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consequently direct the respondents to issue the appropriate Community Certificate recognising the petitioner's daughter, Ms.B.Kanishhka, as belonging to the Hindu Vanniyakula Kshatriya (Most Backward Class Community) of the Union Territory of Puducherry as prescribed by the CENTAC brochure.

In all the Writ Petitions:

For Petitioner(s): Mr.G.Masilamani, Senior Counsel
for Mr. Mani Sundargopal
for Mr.B.Kaarvannan
(in W.P.No.30674 of 2026)
Mr.V.Ajayakumar
(in W.P.Nos.29150, 32534 of 2026)
Mr.M.Gnanasekar
(in W.P.Nos.33413 of 2026)
Mr.Prakash Adiapadam
(in W.P.Nos.30596, 31180 of 2026)
Mr.Stalin Abhimanyu
(in W.P.Nos.30878, 30881, 30886, 30888,
27620, 27628, 27658, 27663, 28045,
28048, 28478, 28500, 29269, 29272,
28485, 28489, 28495 and 32376 of 2026)
Mr.Parthiban Pathmanabane
(in W.P.No.30918 of 2026)
Mr.K.Uthayanithi
(in W.P.No.24755 of 2026)
Mr.S.Sathia Chandran
(in W.P.No.27152 of 2026)
Mr.Kamala Kumar
(in W.P.No.30658 of 2026)

For Respondent(s): Mr.R.Sreedhar,
Additional Government Pleader (Pondy)



COMMON ORDER

A.The Question:

Whether a candidate can claim communal status as Scheduled Caste, Most Backwards Class or Other Backwards Class, based solely on the mother's nativity, when the father, though of the same caste, is a migrant from other States, for the purpose of reservation benefits in the Union Territory of Puducherry, is the common question involved in all these cases.

B. Facts in General :

2. The facts that are generally common to these writ petitions are as under:

2.1. In all these cases, the petitioners are the concerned candidates seeking admission to educational institutions or employment in the Government of Union Territory of Puducherry. In cases where they are minors, their parents are the petitioners.

2.2 They were born in Puducherry and have continuously resided there with their parents.

2.3 They received their education in Puducherry.

2.4 Their mother is a native, possessing a community certificate as Scheduled Caste (SC) / Most Backward Class (MBC) / Other Backward



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Class (OBC), as the case may be, with origin status, having the right to claim reservation in education and employment offered by the Union Territory administration.

2.5 However, their fathers were migrants from other states; in most cases, from the adjoining districts of Tamil Nadu. In some cases, the father possesses a Scheduled Caste certificate and claims to be a native of Puducherry but lacks documents such as a grandfather's certificate to prove the Origin status, thus treating them as Migrants.

2.6 The caste of the father and the mother is the same, having been declared as Scheduled Caste /Most Backward Class / Other Backward Class, as the case may be, for the Union Territory of Puducherry.

2.7 Some of them were originally issued community certificates indicating their origin status. However, when they subsequently reapplied for fresh community certificates on the eve of their admission or employment, the same were denied or issued as Migrant category. In some cases, the issuance of a community certificate for the first time has been refused.

2.8 In all these cases, their caste is not in doubt; the nativity by birth of the candidates, is not in doubt, and the Union Territory



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administration has no problem in granting a community certificate with the endorsement as 'migrant', that is, it can be used to avail reservation benefit only with reference to Central Government employment/admission into an educational institution under the counselling done by way of the All India quota / Central Government institution.

2.9 However, the stand is that the said community certificate cannot be taken as eligible for reservation, as far as employment and education offered by the Union Territory administration.

2.10. Of the cases decided in this batch of matters, Scheduled Caste status is prayed for except in W.P. Nos. 30674, 27152, 29272 & 30886 of 2026 where MBC status is prayed on identical circumstances and in W.P. Nos. 30658, 30881, 30918 & 27658 of 2026 where OBC status is prayed on identical circumstances.

C. The Case of the Union Territory Administration:

3. The Government of Puducherry has filed counter-affidavits resisting the Writ Petitions. Their case is that the determination of Scheduled Caste status is governed by Article 341 of the Constitution of India, under which the Constitution (Puducherry) Scheduled Castes Order, 1964 is issued. As per the Judgments of the Hon'ble Supreme Court of



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India in *Marri Chandra Shekhar Rao Vs. Dean, Seth G.S.Medical*

*College and Others*¹; *Action Committee on issue of caste certificate to*

Scheduled Castes and Scheduled Tribes in the State of Maharashtra and

*Another Vs. Union of India and Another*² and *Bir Singh Vs. Delhi Jal*

*Board*³, it was held that Scheduled Caste status and the benefit cannot be

claimed in the migrant State and can be claimed only in the State of origin.

3.1 The Division Bench of this Court in the case of the *Pondicherry Scheduled Caste People's Welfare Association Vs. Union of India and Others*⁴ had held that persons who had migrated to Puducherry after the Constitution (Puducherry) Scheduled Castes Order, 1964 cannot claim Scheduled Caste benefit in relation to the Union Territory of Puducherry and can claim benefits only in relation to their states of origin. With reference to grant of Scheduled Caste status on the basis of the mothers' origin, the Division Bench of this Court in *N.Premnath Vs. District Collector (Revenue), Department of Revenue & Disaster Management, Puducherry and Another*⁵ had considered the issue and held that the Scheduled Caste status can be claimed only in relation to the

1 (1990) 3 SCC 130

2 (1994) 5 SCC 244

3 (2018) 10 SCC 312

4 (2015) SCC OnLine Mad 7826

5 (2018) SCC OnLine mad 14409



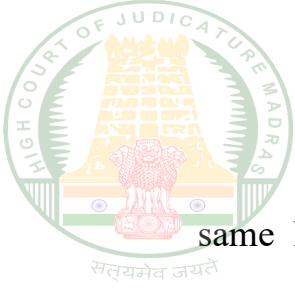
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father and not on the mother. Even though a contrary view was taken in the case of *P.Jeya Vs. Union of India and Others*⁶, and the same was confirmed by the Division Bench in *Union of India Vs. P. Jeya*⁷, the Hon'ble Supreme Court of India confined the relief granted to the individual and kept the question of law open by the judgment dated 19.04.2023 in C.A. No. 9082 of 2014 (*Union of India & Anr Vs. P.Jeya*).

3.2 With reference to other orders directing the grant of Scheduled Caste status, appeals are pending before the Hon'ble Supreme Court of India in *Union of India and Others Vs. R.S. Prathiba* (SLP (C) No.23837 of 2025), and the primary question of whether a child born out of an inter-caste marriage can take the caste of the mother is pending; all other cases relating to Puducherry were directed to be posted along with the batch of cases. In one of the appeals, an interim stay in respect of the contempt proceedings has also been granted. Under these circumstances, in the absence of a final authoritative pronouncement recognising the right to claim Scheduled Caste (Origin Status) solely through the mother, such a certificate cannot be granted in respect of the Union Territory of Puducherry, and hence the benefit is refused. A counter- affidavit on the

⁶ (2004) SCC Online Mad 571

⁷ (2010) SCC Online Mad 2921



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same lines has also been filed in respect of Other Backwards Classes

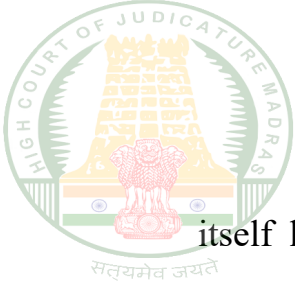
status.

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3.3 By pleading that, with reference to OBCs, when the notification is made in the OM of the year 2001, the benefit of reservation for Most Backward Class / Other Backward Class, the origin status can be given with reference to the residents of Puducherry prior to the said date. Thus, if the father of the candidate / student is a migrant, on the basis of the mother's status as an origin of Scheduled Caste or an origin of Most Backward Class / Other Backward Class, the community certificate of origin status cannot be granted.

D. The submissions of the learned counsel:

4. *Mr. G. Masilamani*, the learned Senior Counsel, led the arguments on behalf of the petitioners in some of the Writ Petitions. He would submit that the very basis of the stand taken by the Union Territory of Puducherry is hit by Articles 14, 15 and 16 of the Constitution of India, as it is discriminatory on the basis of sex. The gender-based stance that society is patriarchal cannot be accepted or said to be true in the present-day context. The original basis of various tenets of Hindu law



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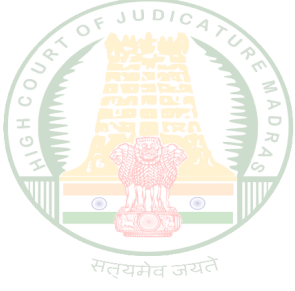
itself has now been changed. In view of the amendment to the Hindu Succession Act, 1956, equal rights have been granted to women in property, making them coparceners even in respect of ancestral property. Therefore, the very basis of the assumption that women would migrate to their husband's place is unfounded. There is no statutory rule or condition under Article 341 or under The Constitution (Puducherry) Scheduled Castes Order, 1964 that the Scheduled Caste status can be claimed only as per the status of the father. The legal position in this regard has been pronounced by the Hon'ble Supreme Court of India in ***Rameshbhai Dabhai Naik Vs. State of Gujarat and Others***⁸, whereunder the earlier pronouncements of the Hon'ble Supreme Court of India in ***Punit Rai Vs. Dinesh Chaudhary***⁹; ***Valsamma Paul Vs. Cochin University and Others***¹⁰; ***Anjan Kumar Vs. Union of India and Others***¹¹, were specifically considered, and while considering the case of a single mother, it finally held that the community status can be claimed through the mother as well.

8 (2012) 3 SCC 400

9 (2003) 8 SCC 204

10 (1996) 3 SCC 545

11 (2006) 3 SCC 257



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4.1 The learned Senior Counsel would also rely upon the Judgment of the Hon'ble Supreme Court of India in ***E.Anitha Vs. The Union Territory of Puducherry and Ors.*** (S.L.P.(C) No.38256 of 2025), where the benefits were directed to be given to the said petitioner. The learned Senior Counsel would submit that the matter has long been decided by this Court in the case of ***P.Jeya Vs. Union of India and Others***¹², whereby specific order issued by the Government of Puducherry, which restricted the right to claim community status only through the father, was specifically quashed. The Judgment was thereafter confirmed by the Division Bench and also by the Hon'ble Supreme Court of India. In the teeth of the same, several Division Benches in ***Thamilarasi.I Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Another*** (W.P.No.38023 of 2024); ***R.S. Prathiba Vs. Union of India, Rep. by the Secretary to Government (Revenue), Chief Secretariat, Puducherry and ors.*** (W.P.No.25382 of 2025); ***Siva Johnson Kennedy. I Vs. Union of India and Another*** (W.P.No.34933 of 2023) have specifically held that communal status has to be granted even with reference to the mother. Further, the same view was continued in ***S.Sumathy Vs. Union of India***

¹² (2004) SCC OnLine Mad 571



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Represented by Secretary Revenue, Government of Puducherry and another (W.P.No.9586 of 2014); **S. Sivapriya Vs. The Tahsildar Department of Revenue and Disaster Management Government of Puducherry and Ors.** (W.P.No.17494 of 2025) and in other matters.

4.2. The learned Senior Counsel would submit that, in three Division Bench judgments, it was held that such status cannot be claimed through the mother. However, insofar as **N. Premnath Vs. District Collector (Revenue), Department of Revenue and Disaster Management, Puducherry and Another**¹³ is concerned, the Judgment in **P.Jeya Vs. Union of India and Others** (cited supra) was not brought to the notice of the Division Bench. Similarly, in the Judgment of **Minor Anbarasan Vs. The District Collector and Others** (W.P.No.2865 of 2022), the same was not considered. The third Judgment by yet another Division Bench in **C.Sathyavathy Vs. The District Collector, Union Territory of Puducherry and Ors.** (W.P.No.15429 of 2022) again relied upon the quashed Government Orders. Therefore, it can be seen that the Judgment in **P.Jeya's** case (cited supra), decided at the earliest point of time, holds the field, as rightly clarified by various Division Benches and followed.

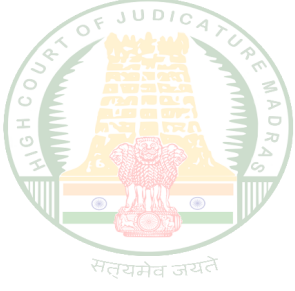
¹³ (2018) SCC OnLine Mad 14409



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There is no justification for the Union Territory of Puducherry in denying the same. The primordial principle that should be followed is the welfare of the minor children, and thus whichever is beneficial to the children should be followed.

4.3. *Mr. Stalin Abhimanyu*, the learned counsel supplementing the arguments, would bring to the notice of this Court several other judgments passed by various Hon'ble Division Benches in *N. Mohanakakkan Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Another* (W.P.No.20624 of 2026), *Sivakumar Vs. Union of India and Another* (W.P.No.20582 of 2026), *K.Bhuvaneswari Vs. Union of India and Another* (WP No.20577 of 2026), *Kayalvizhi Vs. M.Senthil Kumar* (Cont.P.No.1935 of 2026) and *Kayalvizhi Vs. Union of India* (W.P.No.14620 of 2026), *A.Prakash Vs. Union of India and Another* (WP No.19471 of 2025), *Puducherry Bhim Sena and Others Vs. Union of India and Others* (WP No.4063 of 2025), *M.Manju Parkavi Vs. Union of India and another* (WP 6056 of 2025), *A.Vaishali and another Vs. Union of India* (WP No.751 of 2025) and *R.Muthu Vs. Union of India* (WP No.37652 of 2024), etc.



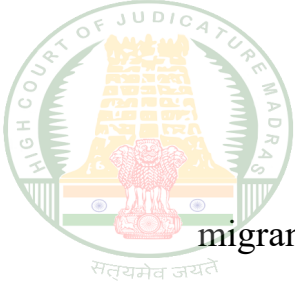
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4.4. He would submit that all the subsequent Division Benches

have taken into account the fact that three Judgments relied upon by the Union Territory administration placed reliance on the Government Orders that are quashed by this Court in **Jeya's** case (cited supra) and since subsequently the same is not interfered by the Hon'ble Supreme Court of India the said judgments cannot be relied upon by the Government of Puducherry.

4.5. *Mr.Prakash Adiatham*, the learned counsel would submit that, by the judgment in **Puducherry SC People Welfare Association Vs. Chief Secretary to Government, Union Territory of Puducherry and Others¹⁴**, the Hon'ble Supreme Court of India specifically held that, in the absence of the term 'origin' in the Constitution (Puducherry) Scheduled Castes Order, 1964, the introduction of such a requirement by the Government Orders in G.O.Ms.Nos.11 and 12 of 2005 was not in conformity with the Presidential Order and, therefore, could not be sustained in law. The said Government Orders were accordingly set aside. Therefore, the Union Territory Administration's prescription of origin or

¹⁴ (2014 SCC OnLine SC 614)



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migrant status is legally unsustainable. Consequently, all the petitioners are entitled to the relief sought for.

4.6 *Mr. V. Ajayakumar*, the learned Counsel would advert to the various orders issued by the Government of India and the Puducherry Administration and would contend that Puducherry followed the Government of India's prescription as it was a Union Territory and accordingly the Hon'ble Supreme Court of India decided the issue in *S.Puspha Vs. Sivachanmugavelu and others*¹⁵, by holding that even migrants are entitled to the benefit of reservation in the Union Territory of Puducherry. Only with reference to education and scholarship, the subsequent Division Bench upheld the policy of the Union Territory. In *Bir Singh's* case (cited supra), the Constitution Bench had observed that it need not go into the correctness of *Pushpa's* case (cited supra). Thus, the classification as Origin and Migrant itself is unwarranted and all the petitioners are entitled for the relief.

4.7 I have also heard, *Mr.M.Gnanasekar, Mr.Parthiban Pathmanabane, Mr.K.Uthayanithi* and *Mr.Kamala Kumar* who made

¹⁵ (2004 3 SCC 132)



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submissions with reference to certain aspects and would adopt the arguments of *Mr.Masilamani*, the learned Senior Counsel in general.

4.8. *Per contra*, *Mr.Sreedhar*, the learned Additional Government Pleader (Puducherry), by placing reliance on the counter affidavit, would submit that, in these proceedings before this Court, which is a single bench, this Court cannot decide the correctness or otherwise of the various Division Bench Judgments. An analysis of the conspectus of litigation shows that various Division Benches have taken two different views. While the Judgments holding that Schedule Caste status can be claimed only through the father have become final, Special Leave Petitions are pending with reference to the Judgments directing the issuance of the community certificate (origin) through the mother. It can be seen that, in some cases, stay of contempt proceedings have already been granted, which entitle the Union Territory administration to follow the status quo ante of the said Judgments.

4.9. Under the said circumstances, the Union Territory administration, which is bound by the periodic instructions issued by the Union of India, also sought clarification. By a communication dated



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17.07.2025, the Government of India clarified that, in the absence of any

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statutory law, a person would inherit his caste status from his father and not from his mother; therefore, this position is consistently followed in all cases. However, with reference to single mothers/widowed mothers, etc., the Ministry of Social Justice and Empowerment, Department of Social Justice and Empowerment, has issued No. 12017/02/2017/-SCD (R.L. Cell) dated 03.10.2019, directing the issue of a community certificate to the child who has been brought up in the surroundings of the notified community to which the mother belongs, has suffered the deprivations, indignities, humiliations, and handicaps like any other member of that community, and is always treated as a member of the mother's community, not only by the community but also by people outside the community. In view of the said memorandum, in deserving cases involving single mothers/widowed mothers, etc., an appropriate community certificate has been issued, taking into account the factual scenario, if it satisfies the office memorandum issued by the Ministry of Social Justice and Empowerment. Therefore, when the Union Territory administration has been following a consistent and categorical policy and the matters are pending on the file of the Hon'ble Supreme Court of India, the petitioners need not be granted any relief. A community certificate of



origin status, if any, granted earlier by mistake on account of the mother's

status will not confer any right on the petitioners.

E. Analysis and finding :

(i) Union Territory of Puducherry & Education and Employment:

5. In 1674, the French East India Company established a trading centre at Puducherry. Thereafter, it was captured by the Dutch in 1693 and returned to France by treaty in 1699. In the 1760s, it was captured by the British and, by treaty in 1763, again transferred back to France. The Mahe region was captured by the French in 1720, Yanam in 1731, and Karaikal in 1738. All four territories under French occupation were merged with India de facto with effect from 04.11.1954. The Treaty of Cession was entered into on 28.05.1956, and the merger was completed on 16.08.1962. The four regions together formed the Union Territory of Puducherry. The President of India administers the Union Territory under Article 239 of the Constitution of India by appointing an Administrator. Article 239A provides that the Parliament may, by law, create a legislature for the Union Territory of Puducherry. In exercise of the power under Article 239A, the Government of Union Territories Act, 1963 was enacted, creating a legislature to aid and advise the Administrator/Lt. Governor, with powers



to legislate with reference to all the entries in List-II and the executive power in tandem.

(ii) Education:

5.1 In view thereof, like any other State, the Union Territory administration has powers with reference to the subject of education. It has established, runs, and maintains educational institutions, including professional educational institutions in the fields of medicine, engineering, law, etc.

(iii) Service:

5.2 Unlike education, service in the Union Territory establishment is unique. Though the President administers the territory through an Administrator and constitutionally controls the Union Territory, the service is not deemed to be the Central Government service. The Central Civil Services (Classification, Control and Appeal) Rules, 1965, and all other Central Government Rules are extended to the service and applied. As per the Government of India's decision under the delegation of financial powers rules, only the power to create Group II, III and IV posts is delegated, subject to approval. Still, the Government



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service in Puducherry is distinct and not equivalent to Central Government service. The personnel are not mutually transferable and, even in cases of necessity, are deployed only on deputation. Even within the service, certain posts are to be filled up from among the officers of the AGMUT cadre and through the Union Public Service Commission. Useful reference in this regard can be made to the observations in general made in paragraph 46 of the Constitution Bench Judgment of the Hon'ble Supreme Court of India in *Bir Singh Vs. Delhi Jal Board*¹⁶, though in the later part the Hon'ble Court was concerned only with the services of the National Capital Territory of Delhi.

(iv) Reservation in General:

6. Historically, the concept of 'Caste' has divided Indian society and created a completely unacceptable hierarchical social behaviour, treating people as higher or lower on account of their birth in families believed to belong to a particular caste, leaving them in an extremely socially disadvantaged position. Under these circumstances, Articles 15(4) and 16(4) of the Constitution of India enable the State to provide reservations for socially and economically backward classes. Article 46

¹⁶ (2018)10 SCC 312



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contains the directive principles to promote, with special care, the educational and economic interests of weaker sections of the people, particularly Scheduled Castes and Scheduled Tribes. Article 366(24) defines the term 'Scheduled Caste' to mean the castes that are deemed as per Article 341. Article 341 of the Constitution of India enables the President to include and promulgate particular Scheduled Castes and Scheduled Tribes with reference to each State. Similarly, Article 342A enables the President to include and promulgate particular Other Backwards Classes with reference to each State/Union Territory.

6.1 Though initially reservation was treated as an exception, it is now understood to be part of the equality doctrine, from formal equality to substantive equality, and it is now held that the binary of merit and reservation has become superfluous. In *Neil Aurelio Nunes Vs. Union of India*¹⁷, the Hon'ble Supreme Court of India has explained that performance in competitive examinations for admission to educational institutions and recruitment to public employment is often shaped by family backgrounds, community networks, access to education, and inherited social capital. It has held that, for this reason, merit cannot be

¹⁷ (2022) 4 SCC 1



treated as socially neutral. Reservation is, therefore, a device to democratise access to merit and not to destroy it. Useful reference in this regard can also be made to the following Judgments,

- (i) *State of Kerala Vs. N.M.Thomas*¹⁸
- (ii) *B.K.Pavithra and Others Vs. Union of India and Others*¹⁹
- (iii) *M.Nagaraj and Others Vs. Union of India and Others*²⁰

(v) Migration :

7. The general question whether one who is recognised as a Scheduled Caste/Schedule Tribe/OBC in the State of origin and by birth continues to have the benefits or privileges or the rights in the State of migration, was considered by the Hon'ble Constitution Bench of the Supreme Court of India in *Marri Chandra Shekhar Rao's* case (cited supra). Interpreting Articles 341 and 342 of the Constitution of India, the Hon'ble Supreme Court of India reasoned that, when a Scheduled Caste / Scheduled Tribe person migrates, there is no bar on migration, but the person does not carry the special rights or privileges attributed with that status in the original State to the State of migration. Denial of benefits in

18 (1976) 2 SCC 310

19 (2022) 16 SCC 485

20 (2006) 8 SCC 212



the migrated State was held not to be a violation. The phrase 'in relation to that State' as contained under Article 341 and 342 was stressed upon, and the reservation benefits were held to be tied to the Presidential order for the particular State.

7.1 Thereafter, the issue came up for consideration once again in *Action Committee on issue of caste certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another's case* (cited supra), whereby the Constitution Bench affirmed the ratio in *Marri Chandra Shekhar Rao's case* (cited supra), while reiterating the phrase 'in relation to that state'. With reference to migration, while considering the specific case of the Union Territory of Puducherry, a three-Judge Bench in *S.Pushpa Vs. Sivacahanmugavelu and Others*²¹ took a contrary view as far as the Union Territory services and held that Union Territory Administration, in order to comply with the directions issued by the Central Government, if it takes a policy decision that even migrants will be entitled to reservation, then the same will be sustainable. However, subsequently, a Division Bench in *Subhash Chandra and Another Vs. Delhi Subordinate Services Selection Board and Others*²² held that the

²¹ (2005) SCC OnLine SC 277

²² (2009) 15 SCC 458



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observations contained in ***S.Pushpa's*** case (cited supra) were *obiter* and did not contain a binding ratio.

7.2 Thereafter, the issue was again referred to a Constitution Bench, and the Hon'ble Supreme Court of India, in ***Bir Singh's*** case (cited supra), held that the Judgments in ***Action Committee on the issue of caste certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra's*** case (cited supra) and ***Marri Chandra Shekhar Rao's*** case (cited supra) were applicable to the States/Union Territories, and thus, there could be no distinction between the States and the Union Territories, as Presidential orders notified for various Union Territories would be applicable to the particular Union Territory. In ***Bir Singh's*** case, the reference itself arose on account of the observations made in ***Pushpa's*** case, leading to uncertainty with regard to Union Territories. The Hon'ble Constitution Bench took note of the Constitutional Provisions; thereafter, it considered the earlier decisions in ***Marri Chandrasekar Rao's*** case (cited supra) and ***Action Committee's*** case (cited supra), and concluded that those decisions were state/Union Territory specific. Though the case dealt with the NCT of Delhi in the later part, the authoritative pronouncement applies to all States and Union Territories while deciding



the question of law. Puducherry is specifically mentioned throughout the discussion. The law was laid down in paragraph 34 as follows:

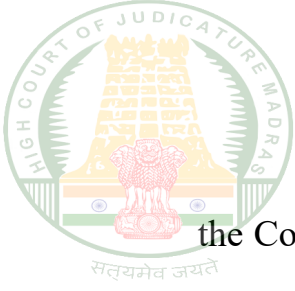
“34. Unhesitatingly, therefore, it can be said that a person belonging to a Scheduled Caste in one State cannot be deemed to be a Scheduled Caste person in relation to any other State to which he migrates for the purpose of employment or education. The expressions “in relation to that State or Union Territory” and “for the purpose of this Constitution” used in Articles 341 and 342 of the Constitution of India would mean that the benefits of reservation provided for by the Constitution would stand confined to the geographical territories of a State/Union Territory in respect of which the lists of Scheduled Castes/Scheduled Tribes have been notified by the Presidential Orders issued from time to time. A person notified as a Scheduled Caste in State ‘A’ cannot claim the same status in another State on the basis that he is declared as a Scheduled Caste in State ‘A’.”

(Emphasis supplied)”

7.3 Thus, it can be seen that the basic consideration in the issue is that when the reservation is being provided for the social disabilities which a person suffers, it is held that migration to another State results in the said social disabilities and stigmas not affecting the person in the migrated state, and therefore, the benefits of reservation do not flow in the migrant’s State.

(vi) The law relating to Origins Vs. Migrants in Puducherry :

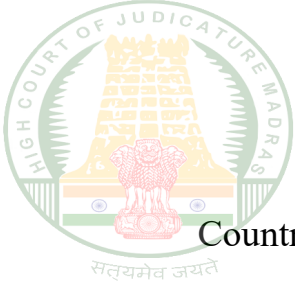
8. The law with reference to the Union Territory of Puducherry developed along three distinct tracks. With reference to employment and admission to educational institutions, the President of India promulgated



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the Constitution (Pondicherry) Scheduled Castes Order, 1964, which came into effect on 05.03.1964. Thereafter, while the Government of India, Ministry of Home Affairs, issued circulars dated 02.05.1975, 22.03.1977 and 22.02.1985, restricting the benefits of reservation in the State of origin. The Government of Puducherry issued a circular on 06.01.1993, whereby it was decided that, with reference to public employment, Scheduled Caste and Scheduled Tribe candidates from outside Puducherry would also be eligible to participate in the selection for the reserved vacancies in the Union Territory administration. However, it decided that other benefits, such as scholarships and admission to educational institutions, would be confined only to the Scheduled Caste people of the Union Territory of Puducherry.

8.1. When the said notification was challenged before the Central Administrative Tribunal in O.A. No. 199 of 1996, etc., the Original Application was allowed. Aggrieved by which, an appeal was filed before the Hon'ble Supreme Court of India in ***S. Pushpa***'s case (cited supra). The Hon'ble Supreme Court of India, after considering the issue, held that the Union Territory of Puducherry adopting the Central Government reservation system of accepting candidates throughout the



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Country cannot be faulted and that there is no legal infirmity in the policy.

However, when the Judgment in ***S. Pushpa's*** case (cited supra) was decided by the three-Judge Bench, as noted supra, a later two-Judge Bench of the Supreme Court of India in ***Subhash's*** case (cited supra) did not agree with the view and observed that the observations in Pushpa's case would only be obiter. Subsequently, the issue came up for consideration before the Hon'ble Division Bench of this Court in ***Puducherry Scheduled Caste People's Welfare Association Vs. Union of India and Others*** (W.A. Nos. 1225 of 2015, etc.). After considering the entire issue, the Hon'ble Division Bench of this Court held that, in the light of Article 341 of the Constitution of India, the Constitution (Pondicherry) Scheduled Castes Order, 1964, the Judgment in ***Marri Chandra Shekhar Rao's*** case (cited supra), and ***Action Committee on issue of caste certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra's*** case (cited supra), the benefits of reservation in education to the Scheduled Castes of Puducherry origin was in order.

8.2. The matter was authoritatively considered by the Hon'ble Constitution Bench in ***Bir Singh's*** case (cited supra), which arose out of the National Capital Territory of Delhi. The Constitution Bench



considered the ruling in *Pushpa's* case in paragraph 35. Thereafter, the

conclusions reached in paragraphs 36-38 has to be extracted hereunder:

“36. The upshot of the aforesaid discussion would lead us to the conclusion that the Presidential Orders issued under Article 341 in regard to Scheduled Castes and under Article 342 in regard to Scheduled Tribes cannot be varied or altered by any authority including the Court. It is Parliament alone which has been vested with the power to so act, that too, by laws made. Scheduled Castes and Scheduled Tribes thus specified in relation to a State or a Union Territory does not carry the same status in another State or Union Territory. Any expansion/deletion of the list of Scheduled Castes/Scheduled Tribes by any authority except Parliament would be against the constitutional mandate under Articles 341 and 342 of the Constitution of India.

37. Article 16(4) is an enabling provision. It enables the State to provide to Backward Classes including Scheduled Castes and Scheduled Tribes reservation in appointments to public services. Such reservation is to be provided on the basis of quantifiable data indicating the adequacy or inadequacy, as may be, of the representation of such classes in Government service. The data which is the basis of the satisfaction of the State being verifiable, is open to judicial scrutiny on the limited ground of relevance of the circumstances on which the satisfaction is moulded. The policy decision to provide reservation, of course, is beyond the pale of judicial review.

38. It is an unquestionable principle of interpretation that interrelated statutory as well as constitutional provisions have to be harmoniously construed and understood so as to avoid making any provision nugatory and redundant. If the list of Scheduled Castes/Scheduled Tribes in the Presidential Orders under Articles 341/342 is subject to alteration only by laws made by Parliament, operation of the lists of Scheduled Castes and Scheduled Tribes beyond the classes or categories enumerated under the Presidential Order for a particular State/Union Territory by exercise of the enabling power vested by Article 16(4) would have the obvious effect of circumventing the specific constitutional provisions in Articles 341/342. In this regard, it must also be noted that the power under Article 16(4) is not only capable of being exercised by a legislative provision/enactment but also by an Executive Order issued under Article 166 of the Constitution. It will, therefore, be in consonance with the constitutional scheme to understand the enabling provision under Article 16(4) to be available to provide reservation only to the classes or categories of Scheduled Castes/Scheduled Tribes enumerated in the Presidential Orders for a



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particular State/Union Territory within the geographical area of that State and not beyond. If in the opinion of a State it is necessary to extend the benefit of reservation to a class/category of Scheduled Castes/Scheduled Tribes beyond those specified in the Lists for that particular State, constitutional discipline would require the State to make its views in the matter prevail with the central authority so as to enable an appropriate parliamentary exercise to be made by an amendment of the Lists of Scheduled Castes/Scheduled Tribes for that particular State. Unilateral action by States on the touchstone of Article 16(4) of the Constitution could be a possible trigger point of constitutional anarchy and therefore must be held to be impermissible under the Constitution.”

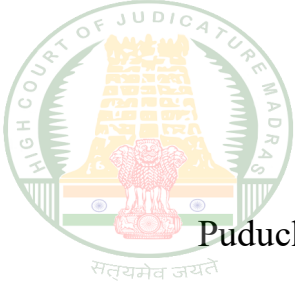
8.3 An argument in made that *Pushpa's* case was not over-ruled.

But it must be seen that the above findings were made specifically after discussing the law laid down in *Pushpa's* case. It should be noted that the following observations were made in paragraph 43:

“43. The above view coupled with the scope and ambit of the present reference may also not require us to go into the correctness of the view expressed by this Court in para 14 of the decision in S. Pushpa [S. Pushpa v. Sivachanmugavelu, (2005) 3 SCC 1 : 2005 SCC (L&S) 327] (as already extracted). The resolution of the question formulated for an answer is capable of being reached by adopting an entirely different perspective which we intend to do hereinafter.”

(Emphasis supplied)

8.4 Thereafter, they have reasoned that the Delhi Services are a distinct service from that of the Central Government services and as such the law laid down regarding migration will apply. The position in the Union Territory of Puducherry is no different. The Union Territory of



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Puducherry services is also a distinct service. The petitioners do not argue that the services are part of the Central Government services . Hence, the law laid down by the Hon'ble Constitution Bench in ***Bir Singh's*** case (cited supra), will prevail in all force to the Union Territory of Puducherry.

8.5 A reference is also made to the judgment of the Hon'ble Supreme Court in C.A. No. 10829 of 2010 (***Puducherry SC People Welfare Association -Vs- Chief Secretary to Govt and others***). The Government of Puducherry issued a Government Order in G.O.Ms.No.11 / 2005 / WEL / SEW – II and G.O.Ms.No.12 / 2005 / WEL / SEW – II, both dated 05.08.2005, whereby it was made clear that the reservation benefits in promotion, employment in Group 'C' and 'D' posts will be extended only to the Scheduled Caste-Origins of the Union Territory and similarly the G.O.Ms.No.12 / 2005 / WEL / SEW – II, restricted the reservation benefits to Scheduled Caste-Origins in the field of education and welfare. The said Government Orders came to be challenged by the Puducherry Scheduled Caste People Welfare Association and the matter ultimately went upto the Hon'ble Supreme Court of India in Civil Appeal No.10829 – 10830 of 2010 and the Hon'ble Supreme Court of India held that when



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Article 341 uses only the term 'resident', the scope of the Presidential order

cannot be modified, varied by using a different term 'origin' and therefore,

held that the GO's in G.O.Ms.Nos. 11 and 12 of 2005 as unsustainable and set them aside. A careful reading of the said judgment only states that when the Constitution (Puducherry) Scheduled Castes Order, 1964 uses only the phrase 'resident ', a new phrase 'origin' cannot be adopted. It is not laid down in the said judgment that migrants will be entitled for reservation.

8.6 Thus, on a consideration of the various pronouncements of the Hon'ble Supreme Court of India, it is clear that, with reference to the benefit of reservation in both employment and educational institutions, persons will be not entitled to the benefit in the migrated state. In order to determine the same, a person is held to be native/resident (origin) if he is a resident of the state as on the date of the notification of the Scheduled Castes, Scheduled Tribes or Other Backward Classes under Article 341, 342, 342A of the Constitution of India. The relevant notification is the Constitution (Pondicherry) Scheduled Castes Order, 1964, notified by the President of India, with effect from 05.03.1964. With reference to OBCs and MBCs, the date of notification for the Union Territory of Puducherry



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is published vide G.O.Ms.No.9 / 2001, with effect from 19.02.2001. Thus, in order to claim the SC / ST status, the nativity/residence of a person should date back to 06.10.1964, and with reference to MBCs / OBCs, it should date back to 19.02.2001.

(vi) Issue of Matrilineal or Patrilineal :

9. Thus, for any Schedule Caste person born before 06.10.1964, or an MBC or OBC person born before 19.02.2001, no difficulty arises. However, for those born after the cut-off date and brought up in Puducherry, the question is whether, while tracing nativity/residence and conferring the benefit of reservation/Scheduled Caste Status, it can be traced through the father or the mother. In this regard, the stand of the Government of Puducherry is that, being a patriarchal society, caste should be traced patrilineally by birth, and in the absence of any statutory provision or entitlement, it cannot be traced matrilineally.

9.1. At the outset, the stand taken by the Government of Puducherry that ours is a patriarchal society requires critical consideration. Reservation is intended to advance substantive equality and address historical injustices suffered by socially and economically backward



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castes. Thus, from a historical perspective, it has to be traced that Indian society has traditionally been patriarchal. However, in the teeth of Articles 14, 15 and 16 of the Constitution of India, there can be no assertion that society must continue to be treated as patriarchal or that, in the absence of a statutory provision, it should be presumed to be so. The society is driven as under by 'Caste', and it operates to a great extent in the minds of the people. Similarly, while sex is true, in that any person is born as male, female or intersex, gender stereotypes are based on stories and beliefs built over a period of time, and they are not necessarily true. The traditional belief that *vamsam* or lineage can only be patriarchal and that the woman takes the domicile of a man are all such stereotypes developed only because of a misogynistic society, compelling women to follow the same.

9.2. For instance, whether male or female, if, for convenience, either the male or female had gone to the other's place and started living there, the very concept would not have existed. In any event, even if the stand of the Government of Puducherry is based on traces of Hindu law. It must be seen that the very concept of the migration of the female, moving away from the scene, has been given a go-by by the 2004 Amendment to the Hindu Succession Act, 1956, whereby women have been made co-



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parceners and given equal proprietary rights in the co-parcenary property as well. Therefore, the stand, if any, which was hitherto taken cannot be persisted. Thus, even with reference to the personal law of Hindus, the law is progressive and embraces equality as effectively as it can be. The Hon'ble Supreme Court of India in *Joseph Shine Vs. Union of India*²³ recognized the conceptual equality of women and the essential dignity to which a woman is entitled (paragraph 48). A woman's identity must be in her own right and must not be submerged as a result of marriage (paragraph 203). The hallmark of a transformative constitution is that it promotes and engenders social change.(paragraph 213). Thus, the basic footing of the argument of the learned counsel appearing for the Government of Puducherry that we are a patriarchal society, though true from a historical perspective, cannot be asserted or perpetuated further, and the same is abhorrent and anathema to law.

9.3. Considering the submission about the absence of statutory law, it must be noted that the law on the point has been laid down by the Hon'ble Supreme Court of India. Originally, in *Punit Rai Vs. Dinesh Chaudhary*²⁴ (paragraph No.27) held that in the absence of any statutory

²³ (2019) 3 SCC 39

²⁴ (2003) 3 SCC 204



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law, a person would inherit his caste from his father and not his mother, even in a case of inter-caste marriage. Again, in paragraph No.41, it was held that the determination of a person's caste is governed by customary laws. Under the Customary Hindu Law, a person would inherit from his father. The said Judgment, along with the pronouncement based on the Customary Hindu Law, was later dealt with by the Hon'ble Supreme Court of India in ***Rameshbhai Dabhai Naik's*** case (cited supra). However, in the context of a tribal woman marrying a non-tribal and whether her child would be entitled to the communal status based on the mother, the Hon'ble Supreme Court of India held that in post-constitutional independent India, when there is such a great consciousness and so much effort is being made for the empowerment of women, it may not be entirely proper to place reliance on the Hindu Customary Law. Paragraph No.38 of the said Judgment is extracted hereunder for ready reference,

“38. Without any disrespect, it seems a matter of grim irony that two nineteenth century decisions of the Privy Council that were rendered in their time to advance and safeguard the interests of Hindu widows should be relied upon and used for complete effacement of the caste and the past life of a woman as a result of her marrying into a different caste. The Privy Council decisions were rendered about a century and a quarter ago in cases of inheritance, in a completely different social and historical milieu, when cases of inter-caste marriage would be coming to the court quite rarely. We are not quite sure of the propriety or desirability of using those decisions in a totally different context in the post-constitutional, independent India where there is such great consciousness and so much effort is being made for the empowerment of women and when instances of inter-caste marriage are ever on the increase. It also needs to be considered how far it would be



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proper to invoke the customary Hindu law to alter the caste status of a woman in an inter-caste marriage or a marriage between a tribal and a non-tribal and to assign to the woman the caste of her husband when such a marriage may itself be in complete breach of the Hindu customary law.”

(Emphasis supplied)

9.4 Further, it is also essential to extract paragraph No.48 of the said Judgment,

“48. It is also clear to us that taking it to the next logical step and to hold that the offspring of such a marriage would in all cases get his/her caste from the father is bound to give rise to serious problems. Take for instance the case of a tribal woman getting married to a forward caste man and who is widowed or is abandoned by the husband shortly after marriage. She goes back to her people and the community carrying with her an infant or may be a child still in the womb. The child is born in the community from where her mother came and to which she went back and is brought up as the member of that community suffering all the deprivations, humiliations, disabilities and handicaps as a member of the community. Can it still be said that the child would have the caste of his father and, therefore, not entitled to any benefits, privileges or protections sanctioned by the Constitution.”

(Emphasis supplied)

9.5 Finally, the findings are contained in paragraph No.55, which is extracted hereunder:-

“55. In an inter-caste marriage or a marriage between a tribal and a non-tribal there may be a *presumption* that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non-tribal the husband belongs to a forward caste. But by no means the presumption is conclusive or irrebuttable and it is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belonged to the Scheduled Caste/Scheduled Tribe. By virtue of being the son of a forward caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humiliations and handicaps like any other member of the community to which his/her mother belonged. Additionally, that he was always treated as a member of the community to



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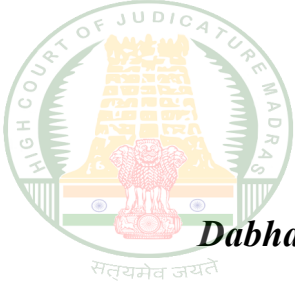
which her mother belonged not only by that community but by the people outside the community as well.”

(Emphasis supplied)

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9.6 Thus, on a careful reading of the later Judgment of the Hon’ble Supreme Court of India, it would be clear that though normally the father’s caste can be looked into, ultimately the test is which caste the child is being brought up in. Whether the deprivations, indignities, humiliations and handicaps of the community are faced by the child will be the litmus test, and whether the claim is made through the father or the mother would not be the decisive factor.

9.7 Thus, if one were to apply the ratio in the present cases, it is admitted that both the father and the mother belonged to the same caste. The mother is a native of Puducherry, and she continues to live in the same community. The father has come down to Puducherry. However, it must be seen that when the child is perceived to be of the same community as that of the mother and grows up in the same caste as that of the mother, and in the eyes of other members of the caste and others in society, it suffers the same deprivations, indignities, humiliations and handicaps as belonging to the caste of the mother, to which only the child will be seen, and therefore, by applying the ratio of the Judgment in ***Rameshbhai***



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Dabhai Naik's case (cited *supra*), it is the facts and circumstances of the case that matter, and there need not be any enabling statutory provision to grant the caste certificate by considering the mother's nativity.

9.8 Further, it is not as if the entire issue rests only on the law laid down by the Hon'ble Supreme Court of India in the aforementioned **Rameshbhai Dabhai Naik's** case (cited *supra*) alone. There are Government Orders issued on the subject and the decisions are made in respect thereof. The Government of Puducherry has issued a memorandum dated 03.08.1995 with regard to the verification of the status, and the following are the criteria that have to be followed,

- “4.
- that the applicant belongs to the community claimed;
 - that the parents of the applicant belongs to the community claimed;
 - that the applicant and either of the applicant's parents is residing at Pondicherry since birth;
 - that the applicant's community is included in the Presidential Order specifying the scheduled caste in relation to Pondicherry.”
- (Emphasis supplied)

9.9 The above-stated memorandum was superseded by a memorandum dated 10.11.2000 which read as follows:-

“In supersession of this Department's memorandum 2nd cited, the certificate issuing authorities are hereby directed to follow only the guidelines prescribed in G.O. Ms. No. 28, dated 2-2-1977 while deciding the migrant/origin status in respect of Scheduled Caste Certificates. It is informed that the origin/migrant status of applicants for scheduled caste certificates should be decided based on only the residential status of



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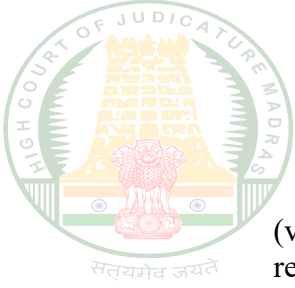
applicants' "father" on the crucial date i.e. 5-3-1964, and not on the residential status of the 'mother'."

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9.10 Thus, the Union Territory administration issued an administrative decision that Scheduled Caste certificates should be determined solely on the basis of the applicant's father's residence and not that of the mother. This memorandum was challenged in *P.Jeya's* case (2004 SCC Online Mad 571). After considering the issue in detail and the mandates of Articles 14 and 15 of the Constitution of India, this Court allowed the Writ Petition and declared the memorandum unconstitutional. The earlier memorandum dated 03.08.2025, which held that the caste certificate of the origin of either the father or the mother of the child was reasonable, continued to operate in the field. The entire paragraph No. 35 of the said Judgment is extracted hereunder for ready reference,

"35. In result,

- (i) for all the above discussions held, the above writ petition stands allowed;
- (ii) the impugned memorandum issued by the first respondent in No. 9565/C2/Rev/2000, dated 10-11-2000 since being discriminatory within the meaning and import of Articles 14 and 15 of the Constitution of India is declared unconstitutional;
- (iii) the earlier memorandum dated 3-8-1995 requiring the issuance of scheduled caste certificate, the origin of either, father or mother of the child seeking such certificate, since being a reasonable order within the ambit of the relevant Articles of Constitution, the same is declared valid.
- (iv) the respondents are directed to immediately process the representation of the petitioner seeking the scheduled caste certificate in favour of her son P. Sivakumar as a scheduled caste of Union Territory of Pondicherry issuing the certificate, giving effect to the memorandum dated 3-8-1995 within 30 days from the date of receipt of a copy of this order, provided the other usual requirements are satisfied;



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- (v) consequently Contempt Petition No. 66 of 2003 praying to punish the respondents for having committed contempt of Court by disobeying the order of this Court dated 29-7-2002 made in W.P.M.P. No. 45083 of 2002 in W.P. No. 30841 of 2002 stands closed and the contemnors are discharged from the contempt proceedings;
- (vi) however, in the circumstances of the case, there shall be no order as to costs.
- (vii) consequently, no orders are necessary in W.P.M.P. No. 45083 of 2002 and W.V.M.P. No. 362 of 2003 and they are closed.”

9.11 Aggrieved thereby, the Government of Puducherry filed an intra-Court Appeal and the Division Bench of this Court in *Union of India and another Vs. P.Jeya*²⁵ dismissed the appeal and held that the learned Single Judge has assessed the entire materials placed on record in his proper perspective and arrived at a conclusion and declined to interfere with the Judgment. Feeling aggrieved, a further appeal was filed before the Hon’ble Supreme Court of India in Civil Appeal No.9082 of 2014. It is essential to extract the entire Judgment of the Hon’ble Supreme Court of India, which reads as follows:-

“After having heard the learned counsel appearing for the parties, we are of the view that our judicial imprimatur deserves to be given to direction contained in Clause (iv) of the operative part of the judgment of the learned Single Judge which has been confirmed by the Division Bench. Therefore, while we dismiss the appeal by confirming the direction issued in terms of Clause (iv) of the order of the learned Single Judge, we keep the question of law open which can be considered in appropriate case. We clarify that we have taken the aforesaid view in the peculiar facts of the case.”

9.12 Thus, it can be seen that the appeal was dismissed; however, Clause 4 of the aforesaid directions of the learned Single Judge

²⁵ (2010) SCC Online Mad 2921

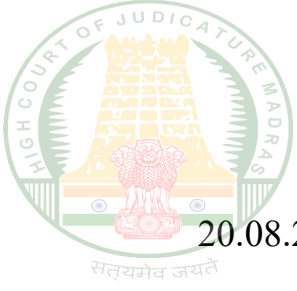


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was expressly confirmed, while keeping the question of law open to be considered in the appropriate case. It must be seen that the Order of the Hon'ble Supreme Court of India would mean that the Hon'ble Supreme Court of India had not given its imprimatur on the other Clauses, however, it has not upset or upturned the decision of the High Court, which would only mean that the question of law is kept open for the Hon'ble Supreme Court of India to decide in an appropriate case and therefore, there is no doubt that the direction issued in *P.Jeya's* case (cited supra) declaring the memorandum dated 10.11.2000 as unconstitutional and holding that the earlier memorandum dated 03.08.1995 would continue to operate the field is in force.

9.13 Under the said circumstances, it must be noted that when the said appeal was pending before the Hon'ble Supreme Court of India and an interim order of stay was in force, the issue of caste certificate through the mother came up for consideration once again before the Hon'ble Division Bench of this Court in *N. Premnath's case* (cited supra), which was decided on 02.11.2018. The Hon'ble Division Bench noted that S.L.P.(Civil) No.22634 of 2010 had been entertained by the Hon'ble Supreme Court of India and that an order of stay was granted on



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20.08.2010, as stated in paragraph No.8 of the Judgment. Under these circumstances, the Division Bench could not hold that the memorandum dated 10.11.2000 was unconstitutional or that the earlier memorandum of 1995 permitting claiming status from either parent was in force, in view of the interim order of stay by the Hon'ble Supreme Court of India, and held otherwise. Once again, the Division Bench in ***Minor Anbarasan vs. The District Collector and Others*** (W.P. No. 2865 of 2022) passed an order to the same effect on 26.02.2022. In the said Judgment, the decision was made, placing reliance on the very same memorandum dated 10.11.2000, in paragraph No.9 of the said Judgment. For a third time, yet another Division Bench decided the issue in ***C. Sathyavathy Vs. The District Collector, Union Territory of Puducherry and Ors.*** (W.P.No.15429 of 2022), in which reliance was made only on the said memorandum dated 10.11.2000.

9.14 In any event, in the year 2023, when the SLP in ***Jeya's*** case (cited *supra*) was dismissed with the order above mentioned, the judgments considering the office memorandum dated 10.11.2000 can no longer be considered as precedents. On the other hand, after ***Jeya's*** case (cited *supra*) was decided, the Hon'ble Division Benches thereafter have

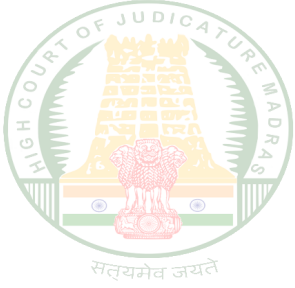


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consistently taken a view and given directions to the Union Territory administration to consider the issue of community certificate, based on the community status and nativity of the mother also.

9.15 In *S. Sumathy's* case (cited supra), the Division Bench noted the Judgment of the Hon'ble Supreme Court of India and held that when the child was brought up entirely in the State of Puducherry, under the care and custody of a mother of Puducherry origin belonging to the SC community, the child is entitled to a community certificate. Thereafter, the issue was again considered in detail by yet another Division Bench in *Siva Johnson Kennedy.I Vs. Union of India and Another* (W.P.No.34933 of 2023). Considering the order of the Hon'ble Supreme Court of India in *Jeya's* case (cited supra), even general directions were issued to the Union Territory of Puducherry for issuance of a community certificate based on the mother's origin, along with supporting documents. Paragraph No.16 of the said Judgment is extracted hereunder for ready reference,

“16. It is made clear that whenever an application is made for issuance of community certificate based on the mother's origin along with supporting documents, the Revenue Authorities shall satisfy himself on the veracity of the documents and if satisfied shall issue the certificate without driving the individual to seek for separate judicial order. No costs. Consequently connected miscellaneous petition is closed.”



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9.16 Thereafter also repeatedly parties were approaching this

Court and orders were granted in ***Brema S. Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Another*** (W.P. No. 34728 of 2024); ***R. Muthu Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and another*** (W.P.No.37652 of 2024); ***Vaishali. A and another Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and another*** (W.P.No.751 of 2025) and ***M. Manju Parkavi Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and another*** (W.P. No. 6056 of 2025) and once again all the earlier Judgments were considered and general directions were issued in ***Puducherry Bhim Sena, Rep. By its Secretary Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry, Union territory of Pondicherry and another*** (W.P. No. 4063 of 2025) and it is essential to extract paragraph No.10, which reads as follows:-

“10. It is surprising that the Government seems to alter the law laid down by the judgments of the Court, after having been a party to the said judgment and not having filed any appeal against those judgments. The Government of Puducherry, being a litigant, is as much bound by a



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judgment of this Court, as a private litigant. It is not open to the Government of Puducherry to alter the position and attempt to overrule the judgments of this Court by passing a Government Order. Hence, the respondents shall consider the individual applications filed by persons, claiming to belong to Scheduled Caste Community and pass orders on its own merits, taking into consideration the decision of the Division Bench of this Court in ***Siva Johnson Kennedy's case [W.P.No.34933 of 2023] dated 21.12.2023*** without driving the individual petitioners to file separate writ petitions as held by this Court in W.P.No.34933 of 2023.”

9.17 Again in a batch of matters in ***A.Prakash and Others Vs.***

Union of India (WP.No.19471 of 2025, etc); ***R.S. Prathiba Vs. Union of India, Rep. by the Secretary to Government (Revenue), Chief Secretariat, Puducherry and ors.*** (W.P. No. 25382 of 2025); ***Kayalvizhi Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Ors.*** (W.P. No. 14620 of 2026); ***K.Bhuvaneswari Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Another*** (W.P. No. 20577 of 2026); ***Sivakumar. V Vs. Union of India, Rep. By its Secretary to Government (Revenue), Government of Puducherry, Chief Secretariat, Puducherry and Another*** (WP. No. 20582 of 2026); ***N.Mohanakakkan's case*** (cited *supra*) orders were passed. It must be seen that in majority of these cases appeals are filed before the Hon'ble Supreme Court of India and SLP's are pending. However, except in one case, where the contempt proceedings have been



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stayed, the orders passed by the Hon'ble Division Benches have not been stayed by the Hon'ble Supreme Court of India and the legal position laid down in all these judgments hold the field.

9.18 The argument made by the learned Additional Government Pleader (Puducherry) that two views are taken by the different Division Benches is absolutely incorrect. The contra view, holding that the caste certificate can only be on the father's native, was taken in only three cases by the Division Benches, all relying on the circular, which has already been declared unconstitutional; however, the decisions were made when the stay order of the Hon'ble Supreme Court was in force. Subsequently, in 2023, when the SLP was dismissed, the Hon'ble Division Benches have consistently and repeatedly held that if the child is born and brought up in Puducherry in the mother's community and surroundings, the community certificate has to be issued to the child. Thus, the arguments of the learned Additional Government Pleader (Puducherry) as if two views are taken cannot be sustained. The consistent view of the law laid down by this Court from *Jeya's* case (cited *supra*) and all other subsequent Judgments decided after the Order of the Hon'ble Supreme Court of India which are



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quoted above make it clear that, as it stands today, the petitioners will be entitled to a community certificate based on the mother's origin.

9.19 Finally, the learned Additional Government Pleader (Puducherry) would rely upon the communication from the Central Government as if the Government of India has ordered the grant of certificates only on the father's nativity. A careful perusal of the said communication dated 17.07.2025 makes it clear that it is not an administrative order or an official memorandum, but a communication from the Under Secretary to the Government of India to the Chief Secretary, whereby, in paragraph No. 4, it is opined that the Judgment in ***Union of India Vs. P. Jeya*** (cited supra) is in *personam* and not an order in *rem*. More importantly, it considered the Judgments passed by the Division Bench of this Court and, in paragraph No. 6, only advised that the Puducherry administration may file an SLP before the Hon'ble Supreme Court of India against the Judgment of the High Court of Madras dated 04.09.2023 in W. P. No. 9586 of 2014 in the case of ***S. Sumathy's*** case (cited supra) and other similar cases. It did not further advise the Government of Puducherry that, even in the absence of any stay, it could disregard or violate the dictum laid down by the various Division Benches



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of this Court. Further, the opinion about the judgment in **P.Jeya's** case is erroneous. Once an office memorandum of the Government is declared unconstitutional, it cannot be treated as a Judgment in *personam*, applicable only to the petitioners. Thus, the reliance placed on the communication dated 17.07.2025 is also without substance, as the said communication is merely an inter-office communication between the concerned authorities and only advises them to prefer an appeal before the Hon'ble Supreme Court of India.

9.20 Accordingly, when appeals are filed and no interim orders are granted by the Hon'ble Supreme Court of India, and when the law is otherwise declared by the Hon'ble Supreme Court of India and various Division Benches of this Court not to grant communal status on the basis of the mother's origin, even though the child is fully born and brought up only in Puducherry and growing up in the community of the mother, the refusal to grant communal status is absolutely illegal.

9.21 It is not that the Government of Puducherry requires both parents to be from Puducherry. It is considered fair when a male marries a woman from another state, and the child is born in Puducherry and lives

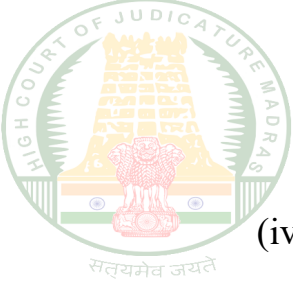


there; the benefit of reservation is granted. If only the female marries a person from another state, even if the male comes and lives in Puducherry and the child is born and brought up in the caste of the mother and the surroundings, the benefit is denied. The basis of reservation is only social disadvantage and the sufferings and stigma attached to the child; that is the primordial factor for conferring the benefit. Whether it is patrilineal or matrilineal makes no difference.

F. The Result:

10. The Writ Petitions stand allowed on the following terms:

- (i) The respective impugned orders passed rejecting the prayer of grant of community certificate with Origin status shall stand set aside;
- (ii) The Writ Petitioners/Candidates are entitled to a community certificate as Schedule Caste/Most Backward Caste/Other Backward Caste as the case may be, with their respective native resident(origin) status mentioned on the basis of their mother's nativity;
- (iii) They will be entitled to the benefit of reservation in education and employment for admission to the various courses and posts under the Union Territory Administration, as well as all other benefits applicable to their respective communal status;



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(iv) This order will not come in the way of the denial of the community certificate of benefit on the basis of any false claim of the caste or if the mother's nativity is also denied.

(v) No costs. Consequently, the connected miscellaneous petitions are closed.

27.08.2026

Neutral Citation : yes
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NOTE: The Registry is directed to incorporate the cause title in all cases and issue order copies accordingly.

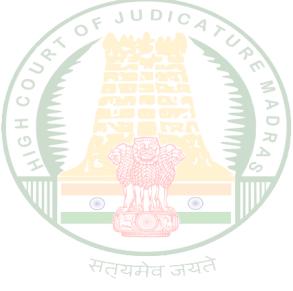
To

1. The Chief Secretary,
The Union Territory of Puducherry Chief Secretariat, Beach Road,
Puducherry-605 001.

2. The District Collector
Office of the District Collector
New Collectorate Buildings, Vazhudavoor Road,
Pettaiyanchathiram, Puducherry-605 009.

3. The Tahsildar
Taluk office, Puducherry Taluk, 100 feet Road,
Mudaliarpur, Puducherry-605 004.

4. The Coordinator
Centralised Admission Committee
(CENTAC)
Government of Puducherry, PEC Campus, Pillaichavadi,
Puducherry – 605 014.



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D.BHARATHA CHAKRAVARTHY.J

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Pre-Delivery order made in
**W.P.Nos.30674, 33413, 29150, 30878, 30881, 30886, 30888, 30596,
27620, 27628, 27658, 27663, 28045, 28048, 28478, 28500, 29269, 29272,
28485, 28489, 28495, 30918, 31180, 32376, 32534, 24755, 27152 and
30658 of 2026**

27.08.2026