

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 4633 of 2023

(Arising out of SLP(C) No 14073 of 2023)

Mizoram Chakma Students Union & Anr

.... Appellant(s)

Versus

The State of Mizoram & Anr

....Respondent(s)

ORDER

1 Leave granted.

2 In 2016, the Government of Mizoram amended the Mizoram (Selection of Candidates for Higher Education Courses) Rules 2016, reserving a percentage of seats in higher educational institutions. The notification sub-divided permanent residents belonging to the Scheduled Tribes into two groups:

(i) Permanent residents, including only the Mizo Tribe; and

(ii) Other permanent residents to include the non-Mizo people.

3 A writ petition was instituted before the Gauhati High Court for challenging the 2016 notification. The High Court struck down the categorization between permanent residents, on one hand, and other permanent residents, on the other, on the ground that the benefit of reservation has to be applied uniformly to all Scheduled Tribes. The State was granted liberty to re-fix the percentage of seats to be reserved for the reserved categories. The judgment of the High Court relied upon the decision of this Court in **E V Chinnaiah v State of A P**¹, which held that a sub-classification within the Scheduled Castes/Scheduled Tribes is not permissible. The judgment of the High Court was upheld by this Court.

1 (2005) 1 SCC 394

- 4 Subsequently, in 2021, the State Government issued another notification reserving 93% of the seats for permanent Scheduled Tribe (Mizo residents), reserving 1% for other local permanent Scheduled Tribe (non-Mizo residents).
- 5 The appellants instituted a writ petition before the High Court under Article 226 of the Constitution for challenging the notification of 2021. The High Court dismissed the writ petition on the ground that the Constitution Bench of this Court in **State of Punjab v Davinder Singh**² has referred the correctness of the decision in **E V Chinnaiah** to a larger bench. The High Court granted liberty to the appellants to approach it after the decision of the larger bench which is reconsidering the decision in **E V Chinnaiah**.
- 6 We have heard Mr Aditya Sondhi, senior counsel appearing on behalf of the appellants and Ms Bansuri Swaraj, counsel appearing on behalf of the State of Mizoram.
- 7 The submission which has been urged on behalf of the appellants is that the High Court was in error in rejecting the writ petition under Article 226 of the Constitution merely on the ground that the correctness of the decision in **E V Chinnaiah** has been referred to a larger bench.
- 8 On behalf of the State of Mizoram, it has been submitted that, as regards NEET 2023, the State has prepared a provisional merit list dated 5 July 2023 *de hors* any sub-classification of the Scheduled Tribes in terms of which three candidates, namely, B Ronald Chakma s/o Karun Chakma Kalpani (Serial No 13), Krisparonjon Tongchangya s/o Bishnu Kanto Tongchangya (Serial No 71) and Phiroj Chakma s/o Mola Dhan Chakma (Serial No 75), belong to the Chakma Tribe and would be granted provisional admission.

9 Responding to the above statement on behalf of the respondents, it has been fairly stated on behalf of the appellants that this approach of the State Government would presently assuage the grievance of the students which was addressed in the writ petition.

10 However, we find merit in the submission of the appellants that the High Court ought not to have dismissed the writ petition merely because a reference on the correctness of the decision in **E V Chinniah**'s case is pending before a larger bench of this Court. We accordingly set aside the impugned judgment of the Division Bench of the Gauhati High Court dated 21 June 2023. The writ petition shall stand restored to the file of the High Court.

11 For the present, as regards NEET 2023, the arrangement which has been made by the State Government, as noted above in the submissions of counsel appearing on behalf of the State, shall continue to operate. The appellants would be at liberty to move the High Court for such further interim directions as may be required, during the pendency of the proceedings.

12 The appeal is disposed of in the above terms.

13 Pending application, if any, stands disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

ITEM NO.22

COURT NO.1

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 14073/2023

(Arising out of impugned final judgment and order dated 21-06-2023
in PIL No. 44/2022 passed by the Gauhati High Court)

MIZORAM CHAKMA STUDENTS UNION & ANR. Petitioner(s)

VERSUS

THE STATE OF MIZORAM & ANR. Respondent(s)

(FOR ADMISSION and I.R.)

Date : 24-07-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Aditya Sondhi, Sr. Adv.
Mr. Vikram Hegde, AOR
Mr. Rajbhushan Luv Shinde, Adv.
Mr. Jagrit Vyas, Adv.
Ms. Meghna, Adv.

For Respondent(s) Ms. Bansuri Swaraj, Adv.
Mr. Siddhesh Shirish Kotwal, AOR
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. Nihar Dharmadhikari, Adv.
Mr. Tejasvi Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 Leave granted.
- 2 In terms of the signed order, the appeal is disposed of.
- 3 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)