

(2010) 11 KAR CK 0043

In the Karnataka High Court

Case No : Writ Appeal No. 10064 of 2010 (S-DIS)

The Registrar Karnataka Veterinary, Animal and Fisheries
Sciences University Nandinagar, P.B. No. 6 Bidar-585401
Karnataka State

APPELLANT

Vs

Dr. Mahendran K, Dr. Eswaran C and Dean Veterinary College
Karnataka Veterinary, Animal and Fisheries Sciences
University

RESPONDENT

Date of Decision : 03-11-2010

Acts Referred:

Citation : (2010) 11 KAR CK 0043

Hon'ble Judges : Subhash B. Adi, J;N. Kumar, J

Bench : Division Bench

**Advocate : Ameet Kumar Deshpande, for the Appellant; Veeresh B. Patil,
Advocate for R1 and R2 and Sri M Kumar . AGA for R3, Notice to R4, for the
Respondent**

Final Decision : Allowed

Judgement

N. Kumar, J.—The Registrar, Karnataka Veterinary, Animal and Fisheries Sciences University, has filed this Writ Appeal challenging the order passed by the learned single Judge who has set aside the order of termination of the respondents as illegal, arbitrary and has directed reinstatement with continuity of service and all consequential benefits. For the purpose of convenience, the parties are referred to as they are referred to in the Writ Petition.

2. First Petitioner is a native of Pondichery. He has obtained a caste certificate showing that he belongs to Adi Dravida Caste which is a Scheduled Caste. The second petitioner belongs to Pallan Caste which is also recognised as Scheduled Caste both in Karnataka as well as in Tamilnadu. The first respondent University issued a notification dated 17.8.2006 inviting applications from eligible candidates for the post of Assistant Professors in several disciplines including Veterinary Clinical Medicine and Veterinary Parasitology. One of the posts in each

of the above subjects was reserved for Scheduled Caste. The first petitioner applied for the post of Assistant Professor in Veterinary Clinical Medicine and the second petitioner applied for the post of Assistant Professor in Veterinary Parasitology. Both applied in the reserved quota meant for Scheduled Caste. The first respondent called them for interview and after due process of selection, the first petitioner was appointed by an order dated 1.12.2006 as Assistant Professor in Veterinary Clinical Medicine in Veterinary College at Bidar and he reported to duty on 20.12.2006. The second petitioner was appointed by an order dated 9.3.2007 in the Department of Veterinary Parasitology in Veterinary College at Bidar. After such appointment, the respondents realised that both these petitioners are from outside the State of Karnataka and were not entitled for reservation. Therefore, they were issued a notice dated 4.7.2007 calling upon them to show cause why their services should not be terminated from 18.7.2007. In fact the said notice contained reference to the letter dated 18.6.2007 of the Karnataka Government and the letter dated 6.8.1984 of the Government of India to demonstrate that the order of appointment was contrary to such letters. The petitioners challenged those show cause notices by filing W.P. No. 11069/2007 which came to be dismissed on 18.7.2007 on the ground that the Writ Petition is premature and they should show cause to the notices. Thereafter, the petitioners submitted their explanation. On consideration of the said representations, order dated 27.7.2007 came to be passed terminating their services. They were relieved on 31.7.2007 from their respective posts.

3. Aggrieved by the same, the petitioners preferred a Writ Petition in W.P. No. 6546/2008 before this Court contending that it violates the Constitution (Scheduled Castes) Order, 1950 and Constitution (Pondichery) Scheduled Caste Order, 1964 notified by the President of India. According to them they belong to Adi Dravida and Pallan Castes which are Scheduled Caste in Karnataka State, in the Union Territory of Pondichery and in the State of Tamilnadu also. Therefore, they were eligible for reservation in the State of Karnataka as the order of appointment was valid and legal and now as their services have been terminated illegally, arbitrarily, the same is liable to be set aside.

4. Learned single Judge who heard the matter held that, since the petitioners belong to Scheduled Caste even in Karnataka State as is clear from the Constitution (Scheduled Castes) Order, 1950 and as admitted by respondent Nos. 1 and 2 in their statement of objections, they were entitled to reservation of posts earmarked for Scheduled Caste in Karnataka and, therefore, their termination is illegal and arbitrary. Accordingly, he quashed the said order of termination, directed reinstatement with continuity of service and consequential benefits. Aggrieved by the said order, the University is before us.

5. Learned counsel for the appellant/respondent in the Writ Petition assailing the impugned order passed by the learned single Judge contended that, even though the petitioners belong to Scheduled Caste both in the State of Karnataka as well as in the State of Tamilnadu, as well as in the Union Territory of Pondichery, in a

recruitment made in the State of Karnataka, they are not entitled to reservation which is clearly meant for persons belonging to Scheduled Caste within the State of Karnataka. He submits two Constitution Bench decisions of the Apex Court have ruled accordingly and, therefore, the judgment passed by the learned single Judge is contrary to the law declared by the Apex Court and, therefore, liable to be set aside.

6. Per contra, learned counsel appearing for the petitioners contended that, when once it is not in dispute that the petitioners belong to Scheduled Caste both in the State of Karnataka as well as in the State of their origin, i.e., Tamilnadu and Pondichery - a Union Territory, they cannot be discriminated and they are entitled to the benefit of reservation in the State of Karnataka especially when in the notification no such distinction is made and, therefore, he submits that the learned single Judge was right in setting aside the order of termination and no case for interference is made out.

7. In the light of the aforesaid facts and the rival contentions, the point that arise for our consideration in this appeal is as under:-

Whether persons who belong to Scheduled Caste and Scheduled Tribe in the State of their origin are entitled to the benefit of reservation in other states to which they migrate or where they file an application seeking for appointment?

8. This question arose for consideration before the Apex Court in the case of MARRICHANDRASHEKHARRAO vs. DEAN. geth G.S. MEDICAL COLLEGE [1990 SCC 3 130] not in the context of employment opportunity but in the context of admission to educational institution. It is in that context the Apex Court interpreted Articles 341 and 342 of the Constitution and held as under:-

13. It is trite knowledge that the statutory and constitutional provisions should be interpreted broadly and harmoniously. It is trite saying that where there is conflict between two provisions, these should be so interpreted as to given effect to both. Nothing is surplus in a Constitution and no part should be made nugatory. This is well settled. See the observations of this Court in Venkataramana Devaru v. State of Mysore (1958 SCR 895, 918; AIR 1958 SC 255), where Venkatarama Aiyer, J. reiterated that the rule of construction is well settled and where there are an enactment two provisions which cannot be reconciled with each other, these should be so interpreted that, if possible, effect could be given to both. It however, appears to us that the expression for the purposes of this Constitution" in Article 341 as well as in Article 342 do imply that the Scheduled Caste and the Scheduled Tribes so specified would be entitled to enjoy all the constitutional rights that are enjoyable by all the citizens as such. Constitutional right, e.g., it has been argued that right to migration or right to move from one part to another is a right given to all to Scheduled Castes or Tribes and to non-scheduled castes or tribes. But when a Scheduled Caste or Tribe migrates, there is no inhibition in migrating but when he migrates, he does not and cannot carry any special rights or privileges attributed to him or granted

to him in the original State specified for that State or area or part thereof. If that right is not give in the migrated State it does not interfere with his constitutional right of equality or of migration or of carrying on his trade, business or profession. Neither Article 14, 16, 19 nor Article 21 is denuded by migration but he must enjoy those rights in accordance with the law if they are otherwise followed in the place where he migrates. There should be harmonious construction, harmonious in the sense that both parts or all parts of a constitutional provision should be so read that one part does not become nugatory to the other or denuded to the other but all parts must be read in the context in which these are used. It was contended that the only way in which the fundamental rights of the petitioner under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) could be given effect to is by construing Article 342 in a manner by which a member of a Scheduled Tribe gets the benefit of that status for the purposes of the Constitution throughout the territory of India. It was submitted that the words "for the purposes of this Constitution" must be given full effect. There is no dispute about that. The words "for the purposes of this Constitution" must mean that a Scheduled Caste so designated must have right under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) inasmuch as these are applicable to him in his area where he migrates or where he goes. The expression "in relation to that State" would become nugatory if in all States the special privileges or the rights granted to Scheduled Castes or Scheduled Tribes are carried forward. It will also be inconsistent with the whole purpose of the scheme of reservation. In Andhra Pradesh, a Scheduled Caste or a Scheduled Tribe may require protection because a boy or a child who grows in that area is inhibited or is at disadvantage. In Maharashtra that caste or that tribe may not be so inhibited but other castes or tribes might be. If a boy or a child goes to that atmosphere of Maharashtra as a young boy or a child and goes in a completely different atmosphere or Maharashtra where this inhibition or this disadvantage is not there, then he cannot be said to have that reservation which will denude the children or the people of Maharashtra belonging to any segment of that State who may still require that protection. After all, it has to be borne in mind that the protection is necessary for the disadvantaged castes or tribes of Maharashtra as well as disadvantaged castes or tribes of Andhra Pradesh. Thus balancing must be done as between those who need protection and those who need no protection, i.e. who belong to advantaged castes or tribes and who do not. Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of article 341 read with Article 15(4) of the Constitution.

14. Our attention was drawn to certain observations in *Elizabeth Warburton v. James Loveland* (1832 HL 499). It is true that all provisions should be read harmoniously. It is also true that no provision should be so read as to make other provisions nugatory or restricted. But having regard to the purpose, it appears to us that harmonious construction enjoins that we should give to each expression-"in relation to that State" or "for the purposes of this Constitution"- its full

meaning and give their full effect. This must be so construed that one must not negate the other. The construction that reservation made in respect of the Scheduled Caste or Tribe of that State is determined to be entitled to all the privileges and rights under the Constitution in that State would be the most correct way of reading, consistent with the language, purpose and scheme of the Constitution. Otherwise, one has to bear in mind that if reservations to those who are treated as Scheduled Caste or Tribe in Andhra Pradesh are also given to a boy or a girl who migrates and gets deducted (sic indicted) in the State of Maharashtra or other States where that caste or tribe is not treated as Scheduled Caste or Scheduled. Tribe then either reservation will have the effect of depriving the percentage to the member of that caste or tribe in Maharashtra who would be entitled to protection or it would denude the other non-Scheduled Castes or non-Scheduled Tribes in Maharashtra to the proportion that they are entitled to. This cannot be logical or correct result designed by the Constitution.

23. Having construed the provisions of Articles 341 and 342 of the Constitution in the manner we have done, the next question that falls for consideration, is, the question of the fate of those Scheduled Caste and Scheduled Tribe students who get the protection of being classed as Scheduled Caste or Scheduled Tribes in the States of origin when, because of transfer or movement of their father or guardian's business or service, they move to other States as a matter of voluntary (sic involuntary) transfer, will they be entitled to some sort of protective treatment so that they may continue or pursue their education. Having considered the facts and circumstances of such situation, it appears to us that where the migration from one State to another is involuntary, by force of circumstances either of employment or of profession, in such cases if students or persons apply in the migrated State where without affecting prejudicially the rights of the Scheduled Castes or Scheduled Tribes in those States or areas, any facility or protection for continuance of study or admission can be given to one who has or migrated then some consideration is desirable to be made on that ground. It would, therefore, be necessary and perhaps desirable for the legislatures or the Parliament to consider appropriate legislations bearing this aspect in mind so that proper effect is given to the lights given to Scheduled Castes and Scheduled Tribes by virtue of the provisions under Articles 341 and 342 of the Constitution. This is a matter which the State legislatures or the Parliament may appropriately take into consideration.

9. Following the aforesaid Constitution Bench judgment, yet another Constitution Bench in the case of ACTION COMMITTEE ON ISSUE OF CASTE CERTIFICATE TO SCHEDULED CASTES AND SCHEDULED TRIBES IN THE STATE OF MAHARASHTRA VS UNION OF INDIA [1994 SCC 5 244] held as under :-

14. It is a matter of common knowledge that before and during the British rule also the social order in India was of graded inequality. During the freedom struggle some of our leaders strived to bring about social integration to give a fillip to the independence movement. The need to bring about equality was

strongly felt After independence when the Constitution was being framed for free India, considerable emphasis was laid on the need to secure equality. The debates of the Constituent Assembly bear testimony to this felt need. The Preamble of our Constitution, which is aptly described as the conscience of our Constitution, promises to secure to all citizens "equality of status and of opportunity". In the Ch. on Fundamental Rights. Article, 14 emphatically states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. But then the Constitution - makers were also aware of the prevailing inequality in the Social structure of the country and, therefore, felt the need to correct this imbalance through appropriate provisions. While Article 15(1) in unmistakable terms provides that the State shall not discriminate against any citizen on grounds only of religion, caste, race, sex, place of birth or any of them. Article 15(4) says that nothing in the foregoing paragraph of the said article shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Schedule Castes and the Schedule Tribes. So also Article 16(1) posits that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State and clause (2) thereof adds that no citizen shall, on grounds 256 of religion, race, caste, sex, descent or place of birth, residence or any of them, be ineligible for or discriminated against in respect of any employment or office under the State. But then clause (4) of Article 16 provides that nothing in the foregoing part of the article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in services under the State. Article 19, insofar as is relevant for the purposes of this petition, states that all citizens shall have the right to move freely throughout the territory of India and to reside and settle in any part of the territory of India. The submission of the learned counsel for the petitioner was that since Article 19 confers a right of free movement throughout the territory of India and a right to reside and settle in any part of the territory of India, persons belonging to the Scheduled Castes and Scheduled Tribes have a right to move from one State to another without hindrance and to reside and settle in any other State. There can be no doubt that this is a fundamental right and members belonging to the Schedule Castes/Scheduled Tribes specified in one State have a right to free movement to another State and to reside and settle in the other State if they so desire. As stated earlier certain privileges have been conferred on members belonging to the Schedule states and Scheduled Tribes in Part XVI of the Constitution, namely. Articles 330, 332, 335 and 336 which we have referred to earlier. But as pointed out earlier on a plain reading of clause (1) of both Articles 341 and 342, extracted earlier, it becomes obvious that the power of the President is limited to specifying the castes/tribes which shall, "for the purposes of Constitution", be deemed to be Scheduled Castes or Scheduled Tribes "in relation to a State or a Union Territory", as the case may.

.....It is not necessary to dilate on this point as the Constitution itself recognises that members belonging to the Scheduled Castes and Scheduled Tribes and other backward classes have to be given certain incentives, preferences and benefits to put them on an even keel with others who have hitherto enjoyed a major share of the facilities for development and growth offered by the State, so that the former may, in course of time, be able to overcome the handicap caused on account of denial of opportunities. The interpretation that the court must put on the relevant constitutional provisions in regard to Scheduled Castes/Scheduled Tribes and other backward classes must be aimed at achieving the objective of equality promised to all citizens by the Preamble of our Constitution. At the same time it must also be realised that the language of clause (1) of both the Articles 341 and 342 is quite plain and unambiguous. It clearly states that the President may specify the castes or tribes, as the case may be, in relation each State or Union Territory for the purposes of the Constitution. It must also be realised that before specifying the castes or tribes under either of the two articles the President is, in the case of a State, obliged to consult governor of that State, Therefore, when a class is specified by the President, after consulting the governor of State A, it is difficult to understand how that specification made "in relation to that State" can be treated as specification in relation to any other State whose governor the President has not consulted. True it is that this specification is not only in relation to a given State whose governor has been consulted but is "for the purposes of this Constitution" meaning thereby the various provisions of the Constitution which deal with Scheduled Castes/Scheduled Tribes. The Constitution bench has, after referring to the debates in the Constituent Assembly relating to these articles, observed that while it is true that a person does not cease to belong to his caste/tribe by migration he has a better and more socially free and liberal atmosphere and if sufficiently long time is spent in socially advanced areas, the inhibitions and handicaps suffered by belonging to a socially disadvantageous community do not truncate his growth and the natural talents of an individual gets full scope to blossom and flourish, Realising that these are problems of social adjustment it was observed that they must be so balanced in the mosaic of the country's integrity that no section or community should cause determent or discontentment to the other community. Therefore, said the Constitution Bench, the Scheduled Castes and Scheduled Tribes belonging to a particular area of the country must be given protection so long as and to the extent they are entitled to in order to 259 become equals with others but those who go to other areas should ensure that they make way for the disadvantaged and disabled of that part of the community who suffer from disabilities in those areas. The Constitution bench summed up as under: "In other words. Scheduled Castes and Scheduled Tribes say of A.P. do require necessary protection as balanced between other communities. But equally the Scheduled Castes and Scheduled Tribes say of Maharashtra in the instant case, do require protection in the State of Maharashtra, which will have to be in balance to other communities. This must be the basic approach to the problem. If one bears this basic approach in mind,

then the determination of the controversy in the instant case does not become difficult.

16. We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Schedule Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that caste, tribe or class in that State which may be totally non est in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste tube bearing the same nomenclature is specified in two States but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State "for the purposes of this Constitution. This is an aspect which has to be kept in mind and which was very much in the minds of the Constitutions - makers as is evident from the choice of language of Articles 341 and 342 of the Constitution. That is why in answer to a question by Mr. Jaipal Singh, Dr. Ambedkar answered as under: He asked me another question and it was this. Supposing a member of a Scheduled Tribe living in a tribal area migrates to another part of the territory of India, which is outside both the scheduled area are the tribal area, will he be able to claim from the local government, within whose jurisdiction he may be residing the same privileges which he would be entitled to when he is residing within the scheduled area or within the tribal area? It is a difficult question for me to answer. If that matter is agitated in quarters where a decision on a matter like this would lie, we would certainly be able to give some answer to the question in the form of some clause in this Constitution. But so far as the present Constitution stands, a member of a Scheduled Tribe going outside the scheduled area or tribal area would certainly not be entitled to carry with him the privileges that he is entitled to when he is residing in a scheduled area or a tribal area. So far as I can see, it will be practicably impossible to 260 enforce the provisions that apply to tribal areas or scheduled areas, in areas other than those which are covered by them...." Relying on this statement the Constitution bench ruled that the petitioner was not entitled to admission to the medical college on the basis that he belonged to a Scheduled Tribe in the State of his origin.

10. From the aforesaid Constitution Bench judgments of the Apex Court, the law is fairly well settled. In the Chapter on fundamental rights, Article 14 emphatically states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. However the Constitution - makers were conscious of the prevailing inequality in the Social structure of the country. They felt the need to correct this imbalance through appropriate provisions. Article 15(1), Article 15(4), Article 16(1) and (2) and (4)

read harmoniously makes it clear that nothing contained in these Articles namely 14, 15 and 16 prevent the State from making any provision for reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State is not adequately represented in service under the State. Article 19(1)(d) states that all citizen shall have the right to move freely through out the territory of India and to reside and settle in any part of the territory of India. Articles 15(4) and 16(4) specifically empower the State to make special provisions for the advancement of any socially and educationally backward class of citizens or for Scheduled Castes and Scheduled Tribes. Part 16 of the Constitution deals with special provisions relating to certain class, i.e., Scheduled Castes and Scheduled Tribes. Therefore the question is how the persons belonging to Scheduled Castes and Scheduled Tribes are identified. This is provided for in Articles 341 and 342 of the Constitution which reads as under:

341. Schedule Castes

(1) The President [may with respect to any State [or Union territory], and where it is a State, after consultation with the Governor thereof], by public notification, specify the castes, races or tribes or parts of or ground within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State [or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid notification issued under the said clause shall not be varied by any subsequent notification.

342. Scheduled Tribes

(1) The President [may with respect to any State [or Union territory], and where it is a State, after consultation with the Governor thereof] by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State [or Union territory, as the case may be].

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

11. A plain reading of clause (1) of both Articles 341 and 342 makes it clear that the power of President is limited to specifying the castes/tribes which shall for the purposes of the Constitution be deemed to be Scheduled Castes or Scheduled Tribes in relation to a State or a Union Territory, as the case may be. The language of clause (1) of both the Articles 341 and 342 is plain and

unambiguous. Before specifying the castes or tribes under either of the two Articles, the President in the case of a State is obliged to consult the Governor of that State. Therefore, when a caste is specified by the President after consulting the Governor of the State A, it is difficult to understand how that specification made in relation to that State can be treated as specification in relation to any other State whose Governor, the President has not consulted. The whole object is that the Scheduled Castes and Scheduled Tribes belonging to a particular area of the Country, must be given protection, so long as and to the extent they are entitled to, in order to become equals with others. That is the basic approach to the problem. The considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes and Scheduled Tribes or backward class of any given State would depend on the nature and extent of the disadvantages and social hardship suffered by that caste, tribe or class "in that State" which may be totally non est in "another State" to which the persons belonging there to may migrate. Coincidentally it may be that a caste or tribe bearing the same nomenclature is specified in two States, but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages, or various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste, does not necessarily mean, that if there be another caste bearing the same nomenclature in another State, the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State for the purposes of this Constitution.

12. A member of a Scheduled Caste or Tribe going outside the scheduled area, or tribal area would certainly not be entitled to, carry with him the privileges that he is entitled to when he is residing in the scheduled area or a tribal area. The expression "for the purposes of this Constitution" in Article 341 as well as in Article 342 do imply that the Scheduled Caste and the Scheduled Tribes so specified would be entitled to enjoy all the constitutional rights that are enjoyable by all the citizens as such. Neither Article 14, 16, 19 nor Article 21 is denuded by migration, but he must enjoy those rights in accordance with the law, if they are otherwise followed in the place where he migrates. There should be harmonious construction, harmonious in the sense that both parts or all parts of a constitutional provision, should be so read, that one part does not become nugatory to the other or denuded to the other but all parts must be read in the context in which they are used. The words "for the purposes of this Constitution" must mean that a Scheduled Caste so designated must have right under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) in as much as these are applicable to him in his area where he migrates or where he goes. The expression "in relation to that State" would become nugatory if in all States the special privileges or the rights granted to Scheduled Castes or Scheduled Tribes are carried forward. It will also be inconsistent with the whole purpose of the scheme of reservation. The protection is necessary for the disadvantaged castes or tribes of each and every

State. Balancing must be done as between those who need protection and those who need no protection. Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of Article 341 read with Article 15(4) of the Constitution. A harmonious construction of the aforesaid two phrases would mean, the Scheduled Caste or Scheduled Tribe of the State so determined is to be entitled to all the privileges and rights under the Constitution in that State. If such an interpretation is not placed, the reservation will have the effect of depriving the privilege to the member of that caste or tribe in that particular State, for whose protection the reservation was made and it would denude the benefit to the people of those casts belonging to the State. The correct way of reading, consistent with the language, purpose and scheme of the Constitution is, by confining all the provisions and rights under the Constitution, in the State where they are domiciled, which has extended the said benefits, keeping in mind the disadvantages from which they suffer when compared to the advantages enjoyed by others in that State, i.e., within the geographical boundary of the State. The principle underlying this reservation is people belonging to Scheduled Castes and Scheduled Tribes have suffered social disadvantages and were denied facilities for development and growth in certain States. To grant equality in those States where they suffered and were denied facilities for development and growth, certain protective preferences, facilities and benefits in the form of reservation, etc., was provided to them to enable them to compete on equal terms with the more advantageous and developed section of the community in that State. The interpretation that the court must put on the relevant constitutional provisions in regard to Scheduled Castes/Scheduled Tribes and other backward classes must be aimed at achieving the objective of equality promised to all citizens by the Preamble of our Constitution.

13. In fact we also had to take note of the fact that, in the last 50 years or more the persons belonging to these castes have shared the power in different states. Steps have been taken to improve the lot of people belonging to these castes and there is considerable progress made in some States. In some cases, they are now able to compete with others and secure seats in educational institutions or employment purely on merit competing with other castes. But, the fact remains that, in some other States their position has not improved considerably, notwithstanding the lapse of 50 years after the Constitution has come into force. Therefore, when this reservation is made for people belonging to these castes residing within a territory keeping in mind the disadvantage from which they were suffering, persons from other States cannot be considered for appointment in preference to these persons in the States of their origin, merely because they belong to the same caste. If in one State, people belonging to a particular caste, class or tribe are socially and economically backward, while in other States people belonging to the same caste, class or tribe have made their way to main stream and they ceased to be equals. If they are made to compete with each other, certainly such reservation policy would hurt the interests of those persons

to whom it is meant i.e., who have not yet reached the main stream. It is only at the cost of persons belonging to Scheduled Caste/Scheduled Tribe in the State who are under developed, these persons will get employment.

14. While interpreting a constitutional provision, we have to bear in mind the principles evolved by the Apex Court over the years. The Constitution is not an ephemeral legal document embodying a set of legal rules for the passing hour. It sets out principles of an expanding future and is intended to endure for ages to come and consequently to be adapted to the various crisis of human affairs. The Constitution of India, is an organic document. It should be interpreted in the light of the experience. It has to be flexible and dynamic so that it adapts itself to the changing conditions. Therefore, the interpretation to be placed by the Court have to be in tune with the times and the object sought to be achieved and the benefit should reach the persons for whom it is really meant. Though under Article 19 there is a fundamental right to move throughout the country and under Article 14 there cannot be any discrimination between the citizens of this country, though reservation is made u/s 15(4) with reference to persons belonging to Scheduled Caste, Scheduled Tribe, Women and Backward Classes coupled with Articles 341 and 342, the harmonious interpretation to these constitutional provisions would lead to an irresistible conclusion that the reservation made to these class of people in a particular State cannot be extended to persons hailing from other States. Reservation is meant for persons domiciled within the State as described in Article 341. In that view of the matter, though in the instant case the petitioners belong to Scheduled Caste, but they hail from Tamilnadu and Pondichery, they are not entitled to reservation at the cost of persons belonging to Scheduled Caste in Karnataka. The reservation is meant to persons belonging to Scheduled Caste/Scheduled Tribe and persons who have their origin in the State of Karnataka. In that view of the matter, the order passed by the learned single Judge is unsustainable, contrary to the law declared by the aforesaid two Constitution Benches of the Apex Court and also violates the principles underlining Articles 341 and 342 read with Article 15(4). Therefore, it cannot be sustained. Accordingly, we pass the following order:-

- (a) Writ Appeal is allowed.
- (b) The order passed by the learned single Judge is hereby set aside.
- (c) The order of termination passed terminating the services of the petitioners is restored.
- (d) No costs.