



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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E.MBA, LL.M, Ph.D, PGDSAPM

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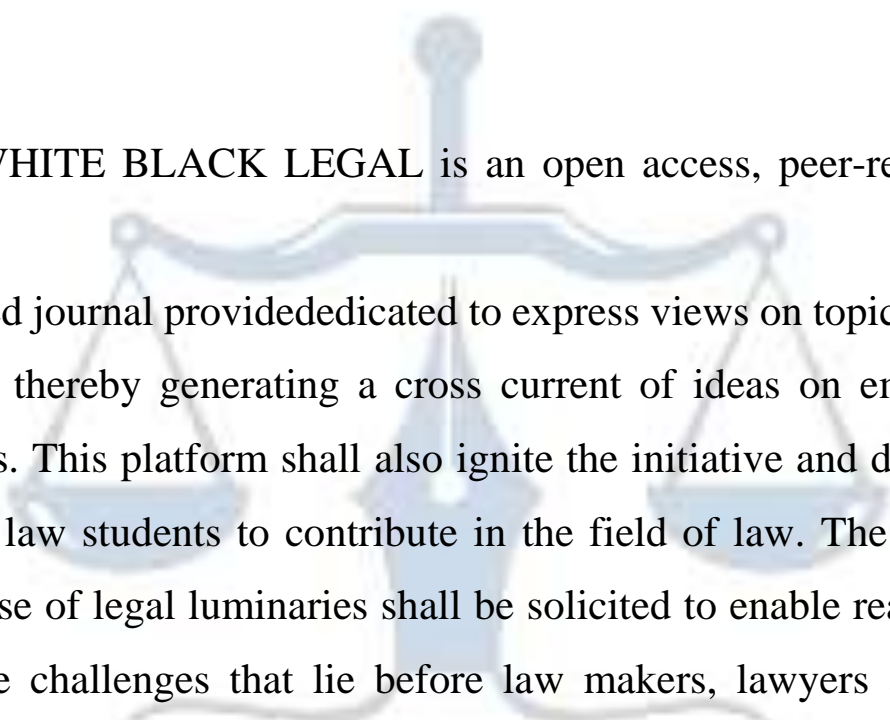


Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE LANDMARK JUDGMENT OF THE SUPREME COURT OF INDIA ON SC ST SUB-CLASSIFICATION IN RESEVERVATION¹

AUTHORED BY - NIRZANA BANIKYA

CASE COMMENT ON: STATE OF PUNJAB VS DAVINDER SINGH- Civil Appeal No. 2317 of 2011²

ABSTRACT

The Supreme Court's recent verdict on the sub-classification within Scheduled Castes and Scheduled Tribes reservations marks a significant milestone. By acknowledging the diverse needs and disparities within these communities, the Court has paved the way for a more nuanced approach to reservation policies. This landmark decision recognizes that the existing broad categories of SCs and STs are insufficient to address the unique challenges faced by various sub-groups. By allowing sub-classification, the Court enables policymakers to craft targeted solutions ensuring that the most disadvantaged segments receive adequate support. Effective implementation will be crucial to realizing the benefits of sub-classification. Stakeholders must engage in through research, consult with community leaders, and establish clear guidelines to prevent potential pitfalls. Ultimately, this judgment represents a crucial step towards a more inclusive and equitable society, where marginalized communities receive tailored support to overcome historical injustices. However, it is seen that there are many contentions put by different leaders of the country. This case comment critically examines the Supreme Court's judgment on sub-classification in reservations, raising crucial questions about the implications for social justice. Does the judgment risk perpetuating caste hierarchies and undermining the principles of social justice? Can the benefits of sub-classification outweigh the potential consequences of creating new divisions within the marginalised communities? Does the judgment adequately address the administrative and implementation challenges that sub-classification poses? Will sub-classification lead to a more equitable distribution of benefits, or will it further marginalise the most vulnerable sub-groups? By exploring these questions, this case comment argues that the Court's decision may have unintended consequences that undermine the very purpose of reservation policies.

¹ Nirzana Banikya, LL.M. 2nd Semester, J.B. Law College, Gauhati University

² Reportable 2024 INSC 562

INTRODUCTION

In the labyrinth of India's caste system, where centuries-old hierarchies and disparities persist, the Supreme Court's recent judgment on sub-classification in reservations has ignited a spark, casting a shadow of uncertainty over the future of social justice. Like a puzzle with missing pieces, the verdict attempts to address the intricacies of caste-based discrimination, but raises more questions than answers. As the nation grapples with the implications of this landmark decision, it is essential to delve into the heart of the matter, examining the subtle nuances and potential consequences of sub-classification. The judgment, hailed by some as a beacon of hope for marginalised communities, has also been criticised for its potential to create new divisions and reinforce existing caste dynamics. As the country navigates this complex landscape, it is crucial to consider the voices of those who have been historically silenced, and to question whether this decision truly addresses the root causes of caste-based oppression. Take, for instance, the example of the Mahars, a Dalit community in Maharashtra, who have faced centuries of discrimination and exclusion. Will sub-classification within the Scheduled Caste category further fragment their already marginalised voices, or will it provide a platform for their unique struggles to be heard? Similarly, the Gujjar community in Rajasthan, who have been demanding reservation benefits for decades, may find themselves pitted against other sub-groups within the Scheduled Tribe category. Can we truly expect sub-classification to bridge the gap between these communities, or will it only serve to widen the chasm?

Justice Gavai's suggestions on the 'creamy layer' within the Scheduled Castes and Scheduled Tribes, where affluent individuals within these communities are excluded from reservation benefits, offer a glimmer of hope. By introducing the concept of 'non-creamy' and 'creamy' layers within these communities, Justice Gavai's approach acknowledges the stark economic disparities that exist even within marginalised groups. However, the devil lies in the details – how will this distinct be implemented, and will it not create new avenues for exclusion and discrimination?

Moreover, the judgment raises fundamental questions about the nature of social justice in India. Are we merely tinkering with the symptoms of caste based discrimination, or are we willing to confront the systematic rot that perpetuates inequality? Can we imagine a future where caste is not the defining feature of one's identity, but rather a relic of a bygone era? The answers to these questions will determine whether sub-classification becomes a tool for true empowerment or a mere fig leaf for the status quo.

As we navigate this treacherous terrain, we must balance the competing demands of equity and excellence, of representation and merit. We must confront the darker aspects of our society, even as we strive to create a more just and equal world. And so, with a mix of trepidation and hope, we embark on this critical examination of the Supreme Court's judgment, seeking to unravel the complexities of sub-classification and its implications for a nation on the cusp of the transformation. Let us now dissect the nuances of this ground-breaking judgment, and examine the profound implications and repercussions that will reshape the landscape of reservation policies and social justice in India.

BACKGROUND AND FACTS

State of Punjab vs Davinder Singh (2020) is a landmark judgment of the Supreme Court of India that dealt with the issues of reservation in promotions for Scheduled Castes and Scheduled Tribes in the State of Punjab.

In 1975, the Punjab Government introduced a policy aimed at promoting social equity by reserving 25% of promotional positions for Scheduled Castes (SC) and Scheduled Tribes (ST). This policy further subdivided the SC category, allocating 12.5% of the reserved seats to Balmikis (Valmikis) and Mazhabi Sikhs, while the remaining 12.5% was designated for other groups within the SC category. For 31 years, this notification remained in effect until a landmark decision by the Supreme Court's five-judge bench in the case of *E.V. Chinnaiah vs State of Andhra Pradesh (2004)* struck down a similar law in Andhra Pradesh. In other words, this policy was challenged in court and subsequently struck down by the Punjab and Haryana High Court in 2006, following the Supreme Court's landmark decision in *E.V. Chinnaiah vs State of Andhra Pradesh (2004)*, which ruled that sub-categorization within the SC category was not permissible. The High Court again struck down the policy in 2011, citing the Supreme Court's judgment in *M. Nagraj vs Union of India (2006)*³, which emphasized the need for quantifiable data to justify reservations in promotions. The Punjab Government's appeal against this decision led to the case being heard by the Supreme Court.

The Supreme Court's landmark decision in *E.V. Chinnaiah vs State of Andhra Pradesh (2004)* can be distilled into two crucial takeaways. Firstly, it reaffirmed that the power to designate a group as Scheduled Castes lies exclusively with the President, as per Article 341 of the

³ (2006) 8 SCC 212

Constitution, thereby precluding state governments from exercising this authority. Secondly, the Court held that the Scheduled Caste category constitutes a single, “homogeneous” group, as defined under Article 341. Consequently, any attempt to sub-categorize within this group would inherently lead to unequal treatment among individuals belonging to the same class, thus contravening the fundamental right to equality enshrined in the Constitution.

In response to the Supreme Court's ruling in *E.V. Chinnaiah*, the government of Punjab enacted the Punjab Scheduled Caste and Backward Classes (Reservation in Services) Act of 2006. This legislation attempted to circumvent the *Chinnaiah* decision by introducing a "first preference" clause in Section 4(5), which effectively prioritized Balmikis and Mazhabi Sikhs for half of the reserved seats within the Scheduled Caste category. However, the Punjab and Haryana High Court intervened on March 29, 2010, declaring this provision unconstitutional in light of the *Chinnaiah* precedent. The state government subsequently appealed this decision to the Supreme Court, seeking to revive the contentious "first preference" policy.

The Punjab government challenged the *E.V. Chinnaiah* verdict, claiming it was inconsistent with the Supreme Court's earlier ruling in *Indra Sawhney v Union of India* (1992)⁴. In the *Indra Sawhney* case, a nine-judge bench acknowledged that certain groups within the Other Backward Classes (OBC) category may experience varying degrees of backwardness. Consequently, states were empowered to create sub-categories within the OBC group to address these disparities. The Punjab government argued that the *E.V. Chinnaiah* decision misinterpreted this precedent, erroneously concluding that sub-classification was only permissible within the OBC category, while ignoring the possibility of similar sub-classification within the Scheduled Caste (SC) category.

On August 20, 2014, the three-judge bench deliberating on the appeal deemed it necessary to seek the expertise of a larger bench, and consequently referred the case to a five-judge Constitution Bench. This move aimed to re-examine and validate the legal principles established in the *E.V. Chinnaiah* verdict, ensuring that the decision aligned with the Constitution and prevailing laws.

On July 15, 2020, a Constitution five-judge bench of the Supreme Court, led by Justice Arun

⁴ AIR 1993 SC 477

Mishra and comprising Justices Indira Banerjee, Vineet Saran, M.R. Shah, and Aniruddha Bose, commenced hearings on the matter. The Punjab government, in its appeal, argued that preferential treatment is an inherent aspect of the right to equality, and that sub-classification, as implemented by the state, is sanctioned by Article 16(4) to ensure adequate representation. Furthermore, the appellants cited the Supreme Court's 2018 ruling in *Jarnail Singh v Lacchmi Narain Gupta*, which acknowledged the 'creamy layer' concept, thereby permitting sub-classification within the Scheduled Caste category. This precedent, they contended, legitimized the Punjab government's sub-classification approach.

The five-judge Bench observed that the Constitution allows for sub-classification within the Socially and Educationally Backward Classes (SEBCs) category under Article 342A, which was introduced in 2018 and grants the President the authority to compile a list of SEBCs. The Bench noted that the constitutional provisions pertaining to Scheduled Castes (Article 341), Scheduled Tribes (Article 342), and SEBCs (Article 342A) are analogous and should therefore be interpreted in a consistent manner. Given that sub-classification is permissible within the SEBC category, as established in the *Indra Sawhney* case, the Bench reasoned that it would be inconsistent to prohibit sub-classification within the Scheduled Caste and Scheduled Tribes categories, which are similarly situated.

The Supreme Court further observed that since the State has the authority to grant reservations to Scheduled Castes and Scheduled Tribes under Articles 15 and 16, it logically follows that the State should also be empowered to introduce sub-classification to truly realize the essence of the right to equality. The Court emphasized that the appeal challenging the *E.V. Chinniah* verdict raised critical questions regarding the interpretation of multiple constitutional provisions, including Articles 14, 15, 16, 338, 341, 342, and 342A. Given the far-reaching implications of this case, the Court deemed it essential to ensure that its own precedents, such as *Indra Sawhney*, were correctly applied and upheld, in order to maintain the integrity and consistency of its rulings on this matter of great public importance.

In light of the complex constitutional issues at play, the five-judge bench determined that it lacked the authority to re-examine the precedent set by *E.V. Chinniah*, which was previously decided by a similarly constituted five-judge bench. To ensure a definitive and authoritative resolution, the Court opted to refer the matter to a larger seven-judge bench on August 28, 2020, thereby allowing for a more comprehensive reconsideration of the issues at hand.

On February 1, 2024, the Supreme Court announced a brief postponement, rescheduling the highly anticipated hearing to February 6, 2024. Following an intense three-day hearing, the seven-judge bench, presided over by Chief Justice D.Y. Chandrachud, concluded the proceedings on February 8, 2024, and reserved its judgment in the landmark case. This pivotal decision marked a crucial milestone in the legal journey, as the nation awaited the court's verdict on the contentious issue of sub-categorization within the Scheduled Castes and Scheduled Tribes communities. The Supreme Court's landmark judgment on February 8, 2024, allowed for sub-categorization within the Scheduled Castes (SC) and Scheduled Tribes (ST) communities for reservation purposes, overturning the 2004 E.V. Chinnaiiah verdict.

ISSUE

1. Can states create sub-groups within the Scheduled Castes category to provide more reservation benefits to certain groups that are considered more disadvantaged than others?
2. Is it unfair to prohibit sub-classification within the Scheduled Caste and Scheduled Tribe categories when a similar sub-classification is allowed for the Socially and Educationally Backward Classes, potentially creating unequal treatment under the law?
3. Did the Supreme Court's 5-judge bench err in its 2004 judgment in the E.V. Chinnaiiah case by disallowing sub-classification within the Scheduled Castes, and should this judgment be revisited or overturned to address the evolving needs of these communities?

JUDGMENT

On 1 August 2024, the apex court upheld the validity of sub-classification with the Scheduled Caste and Scheduled Tribe Categories in a 6:1 majority.

In a ground-breaking judgment on August 1, 2024, the Supreme Court of India opened the door for sub-categorization within the Scheduled Castes (SC) and Scheduled Tribes (ST) communities for reservation purposes. A seven-judge bench of the Supreme Court, presided over by Chief Justice D.Y. Chandrachud, marked a significant departure from the 2004 E.V. Chinnaiiah verdict, which had categorically rejected sub-categorization due to the perceived homogeneity of SCs.

The case, initially slated for hearing on February 1, 2024, was briefly postponed to February 6, 2024, and concluded on February 8, 2024, with the reservation of judgment. During the three-day hearing, the court engaged in intense deliberations, scrutinizing the constitutional validity of sub-categorization within the SC and ST communities.

The majority opinion, authored by Chief Justice Chandrachud, meticulously examined the complexities of the issue, ultimately concluding that sub-categorization is constitutionally permissible. This verdict acknowledges the diverse experiences of discrimination and marginalization within the SC community, rejecting the notion that they constitute a homogeneous group. The court's decision has far-reaching implications for India's reservation system, enabling more targeted support for disadvantaged groups within the SC and ST categories. By recognizing the need for sub-categorization, the court has paved the way for a more nuanced approach to affirmative action, one that addresses the unique challenges faced by different groups within these communities.

Furthermore, the bench emphasized the need for a policy framework to identify and exclude the "creamy layer" from benefiting from affirmative action. This move aims to ensure that the benefits of reservation reach the most marginalized and deserving individuals, rather than being monopolized by more affluent segments within the SC and ST communities. The Supreme Court's ruling marks a significant milestone in the evolution of India's reservation policy, one that promises to bring greater inclusivity and equity to the country's affirmative action regime. The 7-judge bench delivered a landmark judgment with a majority opinion written by Chief Justice D.Y. Chandrachud and Justice Manoj Misra, holding that sub-classification within the SC category is constitutionally permissible and does not dilute the President's powers under Article 341. The majority opinion emphasized the need for a nuanced approach to affirmative action, recognizing that the SC category is not a homogeneous group and that sub-classification can help ensure more targeted benefits. Justice B.R. Gavai, in his concurring opinion, stressed the importance of considering the diverse experiences of discrimination and marginalization within the SC community and highlighted the need for a context-specific approach to sub-classification. Justice Pankaj Mithal, in his separate concurring opinion, underscored the significance of data-driven decision-making in informing sub-classification and emphasized the need for regular review and refinement of the sub-classification framework. Justice Vikram Nath and Justice S.C. Sharma wrote opinions agreeing with the majority, with Justice Nath emphasizing the need to address the "creamy layer" issue and ensure that reservation benefits

reach the most marginalized groups within the SC community. Justice Sharma, in his opinion, highlighted the importance of sub-classification in ensuring more effective implementation of affirmative action policies and addressing the historical injustices faced by the SC community. In contrast, Justice Bela Trivedi dissented, arguing that sub-classification would lead to further divisions within the SC community and potentially undermine the unity and solidarity of the community. Overall, the judges' opinions reflected a nuanced understanding of the complexities involved in sub-classification, with the majority recognizing the need for a more targeted approach to affirmative action while also acknowledging the challenges and potential pitfalls.

CONCLUSION

As the curtains draw on this landmark judgment, the stage is set for a nuanced dance between progress and caution. On one hand, the verdict's emphasis on sub-classification within the SC category can be seen as a masterstroke of precision, allowing for a more targeted approach to affirmative action and a chance to uplift the most marginalized voices. It's a nod to the intricate tapestry of diversity within the SC community, acknowledging that one size doesn't fit all. This surgical approach can help ensure that the benefits of reservation reach those who need it most, preventing the more affluent sections from monopolizing the resources.

However, on the other hand, the dissenting voice of Justice Bela Trivedi whispers a warning of potential fragmentation, echoing the concerns of a delicate balance between unity and diversity. As the nation moves forward, it must navigate this tightrope, ensuring that the pursuit of precision doesn't sacrifice the solidarity of the community. The judgment is a double-edged sword, capable of cutting through the shackles of inequality or inflicting self-doubt. The future will tell if this verdict is a symphony of progress or a cacophony of unintended consequences. Moreover, the judgment's emphasis on data-driven decision-making and regular review can be seen as a beacon of hope, illuminating the path towards a more evidence-based approach to policy-making. Yet, it also raises questions about the reliability of data and the potential for manipulation. The devil lies in the details, and the implementation of this verdict will be crucial in determining its success.

Ultimately, this judgment is a call to action, urging the nation to engage in a nuanced conversation about the complexities of affirmative action and the delicate balance between

diversity and unity. It's a reminder that the pursuit of equality is a continuous journey, requiring constant refinement and adaptation. As the nation moves forward, it must do so with caution, compassion, and a commitment to the principles of justice and equality.

