

**GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:7596

ANSWERED ON:15.05.2000

RESERVATION FOR SCS/STS

AJAY SINGH CHAUTALA;AMAR ROY PRADHAN;RATTAN LAL KATARIA;VILAS BABURAO MUTTEMWAR

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether the Supreme Court has held that the Government could not encroach upon the constitutional provisions relating to appointments of Judicial officers by enacting a law providing additional reservation to the backward classes.

(b) if so, whether the majority 3:2 Judgement was delivered in March, 2000.

(c) if so, the reaction of the Government in this regard and

(d) whether the Government propose to make any provision in the present rule for providing quota for Schedule Castes/Schedule Tribes and Other Backward Classes in Judiciary also.

Answer

MINISTER FOR LAW, JUSTICE & COMPANY AFFAIRS

(SHRI RAM JETHMALANI)

(a) & (b) Yes, Sir. The Supreme Court in State of Bihar & Another Vs. Balmukund Shah & Others (JT 2000 (3) 221) pronounced its judgement on March 14, 2000 in which the majority of Judges (3:2) held that Section 4 of Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1991 which provides 50% reservation in posts for direct recruitment including judicial services in the State is ultra vires to the extent it applies to judicial services since it curtails the powers of the High Court and is in direct conflict with articles 233 to 235 of the Constitution because the State Legislature by totally by-passing the constitutional mandate of articles 233 to 234 and without being required to consult the High Court cannot lay down statutory scheme of reservation for judicial services. According to the Court, Section 4 would not apply to district judiciary/subordinate judiciary as under these articles interference by State Legislature is totally excluded and the same, accordingly, has to be read down.

(c) & (d) Since the judgement relates to the subordinate judiciary of the State of Bihar, it is for the State Government of Bihar to examine its implications.