

**Ashoka Kumar Thakur v. Union of India and Others etc. (Writ Petition (civil) 265 of 2006 with Writ Petitions (C) Nos. 269/2006, 598/2006, 29/2007, 35/2007 and 53/2007)**

**1) Reference Details**

Jurisdiction: Indian Supreme Court

Date of Decision: 17 May 2007

Link to full case: <http://www.judis.nic.in/supremecourt/qrydisp.aspx?filename=29062>

**2) Facts**

This hearing was based on a challenge by the petitioner to the policy of 27% reservation for the Other Backward Classes (OBCs) contained in the Central Educational Institutions Reservation in Admission Act 2006 (the Act). The Act was challenged on the grounds that the Union of India has failed in performing the constitutional and legal duties toward the citizenry and that the Act would have wide ramifications and ultimately result in dividing the country on a caste basis.

The petitioners claimed that the matter was of such importance in terms of the Constitution and equality that it should be heard by a panel of at least five judges.

**3) Law**

*National Law*

- Article 14 of the Constitution of India (equality before the law)
- 93rd Constitution Amendment Act, 2005
- Central Educational Institutions (Reservation in Admission) Act 2006

**4) Legal Arguments**

*The Petitioners*

The petitioners argued that the State cannot be bound to treat some classes of citizens for all time as socially and educationally backward classes of citizens. There the State violated the rights guaranteed under Article 14 of the Constitution.

*The Respondents*

The respondent argued that the petitions should be heard by a Bench of at least five Judges as they raised both substantial questions of law and interpretation of the Constitution.

**5) Decision**

Dr Arijit Pasayat J. set out that the Court could not concern itself:

*“... with the hollowness or the self-condemnatory nature of the statements made in the affidavits filed by the respondents to justify and sustain the legislation. The deponents of the affidavits filed into court may speak for the parties on whose behalf they swear to the*

*statements. They do not speak for the Parliament. No one may speak for the Parliament and Parliament is never before the court. After Parliament has said what it intends to say, only the court may say what the Parliament meant to say, none else."*

He asserted that no Act of Parliament may be struck down because of misinterpretation of parliamentary intent by the executive, which cannot bind Parliament. Validity of legislation is to be judged by all the relevant circumstances which the Court may ultimately find and not merely by affidavits filed on behalf of the State.

Accordingly, the Court did not think that there has been any infringement of the rights guaranteed by Article 14. However considering precedent and the importance of the issues involved and its likely impact in the social life of the country, it was appropriate that the matter should be heard by a larger Bench.

The judge went on to suggest a comprehensive list of issue that the larger Court should consider including; the 93rd Constitution Amendment Act 2005; the scope of Articles 15(4) and 15(5) of the Constitution; the scope of Judicial Review; whether 27% reservation in Socially Educational Backward Classes/Other Backward Classes (SEBC/OBC) was justified; and the constitutionality/validity of the 2006 Act.

The Court ordered that records be placed before the Chief Justice of India for appropriate orders.